

3-22-95
IN THE MATTER OF
THE APPLICATION OF
BRIAN H. FULLERTON /CECELIA
GARRETT -PETITIONERS
FOR ZONING VARIANCES ON
ON PROPERTY LOCATED ON THE
SOUTH SIDE BELAIR ROAD, 3500'
NORTHEAST OF CENTERLINE OF
SUNSHINE AVENUE
(12301 BELAIR ROAD)
11TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 95-63-A
*
* * * * *

ORDER OF DISMISSAL


This matter comes to this Board on appeal from a decision of the Zoning Commissioner dated November 17, 1994 in which the Petition for Variance was denied in part and granted in part.

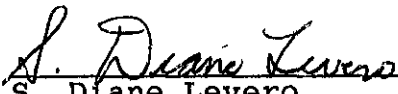
WHEREAS, the Board is in receipt of a Notice of Dismissal of Appeal filed by Robert R. Bowie, Jr., Esquire, on behalf of Brian Fullerton and Cecelia Garrett, Appellants/Petitioners, dated March 7, 1995 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Appellants request that the appeal filed in this matter be dismissed as of March 7, 1995;

IT IS HEREBY ORDERED this 22nd day of March, 1995 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Michael B. Sauer, Acting Chairman


S. Diane Levero


Harry E. Buchheister, Jr.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 22, 1995

Robert R. Bowie, Jr., Esquire
BOWIE & JENSEN
29 W. Susquehanna Avenue, Suite 600
Towson, MD 21204

RE: Case No. 95-63-A
Brian Fullerton and Cecilia
Garrett - Petitioners

Dear Mr. Bowie:

Enclosed please find a copy of the final Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Charlotte E. Roddy for

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Brian H. Fullerton and
Cecelia Garrett
J. Carroll Holzer, Esquire
Mr. Ray Eller
Ms. Doris Schmur
Ms. Diane T. Neas
Charlotte Pine, Esquire
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM



IN THE MATTER OF:

*

S/S Belair Road, 3500' NE of the
c/l of Sunshine Avenue
(12301 Belair Road)
11th Election District -
5th Councilmanic District

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Case No.: 95-63-A

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Petitioners: Brian Fullerton
& Cecelia Garrett

*

NOTICE OF DISMISSAL OF APPEAL

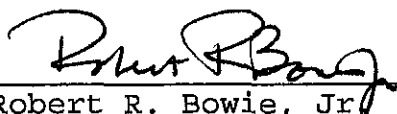
Petitioners, Brian Fullerton and Cecelia Garrett, by their attorneys, Robert R. Bowie, Jr., and Bowie & Jensen, hereby file this Notice of Dismissal of Appeal to dismiss the appeal noted in the above referenced matter scheduled for argument on May 10, 1995.



Robert R. Bowie, Jr.
Bowie & Jensen
29 W. Susquehanna Avenue
Suite 600
Towson, Maryland 21204
(410) 583-2400
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 1995, a copy of the Notice of Dismissal of Appeal was mailed postage prepaid, to J. Carroll Holzer, Esquire, 305 Washington Avenue, Suite 502, Towson, Maryland 21204.



Robert R. Bowie, Jr.

LAW OFFICES
BOWIE & JENSEN
6TH FLOOR, 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204-5274
(410) 583-2400

ROBERT R. BOWIE, JR.

FAX: (410) 583-2437

March 7, 1995

County Board of Appeals of
Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Petitioners: Brian H. Fullerton/Cecelia Garrett
Case No.: 95-63-A
Property: 12301 Belair Road, Kingsville

Dear Sir/Madam:

Enclosed please find Petitioners' Notice of Dismissal of Appeal to dismiss the above referenced appeal scheduled for argument on May 10, 1995.

Thank you for your cooperation.

Very truly yours,

Michelle A. Fenlock

Michelle A. Fenlock
Legal Assistant to Robert R. Bowie, Jr.

Enclosures

cc: Mr. Brian Fullerton
J. Carroll Holzer, Esquire

95MAR-9 PM 2:20
COUNTY BOARD OF APPEALS

12-16-94

IN THE MATTER OF:

*

S/S Belair Road, 3500' NE of the
c/l of Sunshine Avenue
(12301 Belair Road)
11th Election District -
5th Councilmanic District

*

*

Case No.: 95-63-A

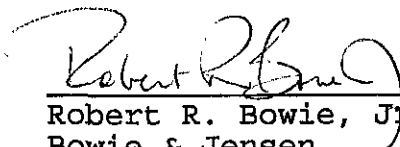
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Petitioners: Brian Fullerton
& Cecelia Garrett

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NOTICE OF APPEAL

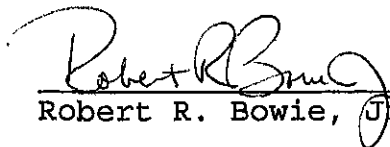
Petitioners, Brian Fullerton and Cecelia Garrett, by their attorneys, Robert R. Bowie, Jr., and Bowie & Jensen, hereby note an appeal from the Zoning Commissioner's Findings of Fact and Conclusions of Law dated November 17, 1994, with respect to the above captioned matter.



Robert R. Bowie, Jr.
Bowie & Jensen
29 W. Susquehanna Avenue
Suite 600
Towson, Maryland 21204
(410) 583-2400
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of December, 1994, a copy of the Notice of Appeal was mailed postage prepaid, to J. Carroll Holzer, Esquire, 305 Washington Avenue, Suite 502, Towson, Maryland 21204.



Robert R. Bowie, Jr.

LAW OFFICES
BOWIE & JENSEN
6TH FLOOR, 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204-5274
(410) 583-2400

ROBERT R. BOWIE, JR.

FAX: (410) 583-2437

December 16, 1994

Baltimore County Government
Zoning Commissioner
Office of Planning & Zoning
111 W. Chesapeake Avenue
Room 109
Towson, MD 21204

Re: Case No.: 95-63-A
Petitioners: Brian Fullerton & Cecelia Garrett

Dear Mr. Schmidt:

Enclosed please find a Notice of Appeal filed on behalf of the Petitioners, Brian Fullerton and Cecelia Garrett.

Thank you for your consideration in this matter.

Very truly yours,


Robert R Bowie, Jr.

Enclosure

cc: Mr. Brian Fullerton
J. Carroll Holzer, Esquire

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DEC 16 1994
ZADM

11-17-94

IN RE: PETITION FOR VARIANCE
S/S Belair Road, 3500' NE of
the c/l of Sunshine Avenue
(12301 Belair Road)
11th Election District
5th Councilmanic District

Brian H. Fullerton and
Cecilia Garrett - Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-63-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as 12301 Belair Road, located in the Kingsville area of northeastern Baltimore County. The Petition was filed by the owners of the property, Brian H. Fullerton and Cecelia Garrett, his wife, through their attorney, Robert R. Bowie, Jr., Esquire. The Petitioners seek relief from Section 421.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 1.4 feet and 3 feet, more or less, for an existing kennel and "dog kennel area", respectively, in lieu of the minimum required 200 feet each from the nearest residential zone, and from Section 413.2(F) of the B.C.Z.R. to permit an existing sign of 121.5 sq.ft. total in lieu of the maximum permitted 100 sq.ft. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Brian Fullerton, co-property owner, Bruce Doak, Registered Land Surveyor with Gerhold, Cross and Etzel, who prepared the site plan, and Robert R. Bowie, Jr., Esquire, attorney for the Petitioners. Appearing in opposition to the relief requested were adjoining property owners, Ray and Doris Eller, and Mrs. Eller's mother, Doris Schmier, who also resides nearby. Mr. & Mrs. Eller and Ms. Schmier were represented by J. Carroll Holzer, Esquire.

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Also appearing in opposition to the relief requested were Kenneth Wells, a nearby property owner, and Diane T. Neas and Charlotte Pine, who appeared on behalf of the Greater Kingsville Community Association. Sewell Price with the Baltimore County Animal Control Division, Robert Powell with the Baltimore County Department of Environmental Protection and Resource Management (DEPRM), and Gary Freund an Inspector with the Zoning Administration and Development Management (ZADM) office also appeared and testified.

Extensive testimony and evidence were offered in support of and in opposition to this Petition. Counsel were also provided the opportunity to submit Memoranda in support of their positions, if desired, and a Memorandum of Argument was received from both Counsel for the Protestants and Counsel for the Petitioners.

Although the testimony and evidence offered were lengthy and fully contained in the record, a brief synopsis is vital to an understanding of the issues raised in this case. The subject property, known as 12301 Belair Road, is roughly rectangular in shape and is located north of Kingsville, not far from the Kingsville Elementary School. The subject site is approximately 1.5 acres in area and is zoned B.R. This zoning was accomplished by way of a Petition for Reclassification of the subject property which was granted on January 23, 1967.

Mr. Fullerton testified that he and his wife, Cecilia Garrett, are co-owners of the Celebrie Veterinary Hospital, Kennel and Pet Supply business which operates on the subject property. Testimony revealed that Ms. Garrett is a licensed Veterinarian and that she supervises the operation of this business. Previously, they operated a kennel business in their home on Chapman Road in northern Baltimore County. The Chapman Road address is a large farm property. Mr. Fullerton testified that he and his

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Date 11/17/84

By [Signature]

wife purchased the subject property approximately 2 and 1/2 years ago. Testimony indicated that when they acquired the property, it was then used as a lawn and garden center. It is to be noted that financing for their purchase of the site was supplied by the previous owner. Because of the owner financing arrangement, there was no survey taken of the property and many of the standard requirements of a commercial lender were not necessary. Subsequent to their purchase of the site, Mr. Fullerton and his wife opened the veterinary hospital, kennel and pet supply business on the property. This business is located in a one-story brick and block building which is attached to a two-story frame addition. The subject building and area devoted to the kennel/veterinary/pet supply business is clearly shown on the site plan for the property as well as the photographs submitted. Also present on this lot is a block building which is leased by the property owners and is used as a carpet warehouse. The warehouse building is 60 feet by 40 feet in dimension. The balance of the property is improved with a macadam paved parking area, a spring house and a small framed shed.

As stated previously, Dr. Garrett is a licensed veterinarian and operates a veterinary hospital, kennel and pet supply business on the site. Routine and emergency medical care is supplied to animals who are treated at this facility. Most often, the facility provides both in-patient and out-patient services for dogs and cats. Also provided is a kennel service for boarding up to 40 animals. Mr. Fullerton testified that the animals are kept inside most of the time, an assertion that was contested by the Protestants present; however, there is an outdoor fenced run area which can accommodate up to 15 animals, each in their own separate run. The Protestants offered a significant volume of testimony as to the use and effect of this outside run area. Moreover, other services for animals,

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such as grooming, are provided on-site. Lastly, a pet store is also maintained on the premises. This store does not sell animals but maintains a large stock of pet products and supplies.

On cross examination, Mr. Fullerton answered a variety of questions as to the use of his property. Some of the questions concerned a fence which had apparently been erected by the Petitioners and, as shown on the site plan, infringes upon the property owned by Mr. & Mrs. Eller. Clearly, this Zoning Commissioner has no authority to approve this fence, the same being more properly the subject of a trespass action in the Circuit Court for Baltimore County. The Petitioner admitted that the fence was wrongly erected and the fence and any other structures erected by the Petitioners must respect the property line. Testimony also evolved on cross-examination regarding an existing septic problem on the site. Apparently the existing septic system drains onto the Eller property and is failing. Testimony was offered by Mr. Fullerton that he had the system installed in May, 1992 and has had the contractor return to the property on several occasions in an effort to locate and resolve the problem. As of the date of the hearing, the problem continued; however, testimony was offered that Baltimore County was monitoring this system and steps were being taken to correct the problem.

Also testifying on behalf of the Petitioners was Bruce Doak, licensed property line surveyor. Mr. Doak prepared the site plan, which was based on an earlier survey which had been performed by a Mr. Willard Lee. Mr. Doak located two encroachments on other properties as a result of his preparation of the site plan. First, he noted that the fence does intrude into the Eller property and recommended that the Petitioners remove same. In fact, the fence has been removed. Moreover, on the southwest side of

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the property, a small portion of the macadam paved parking lot extends onto the Gargano property. The Petitioners have obtained an easement for this intrusion from Mr. Gargano, as evidenced by Petitioner's Exhibit 4, and the area involved is quite small and insignificant. Moreover, the site plan indicates that the parking spaces will be restricted to remain wholly within the subject property. Therefore, under such a restriction, there appears to be no improper use of the Gargano site, which is zoned R.C. 5.

In opposition to the requested relief, testimony was received from Charlotte Pine, Chairman of the Zoning Committee for the Greater Kingsville Community Association. Ms. Pine expressed the Association's significant concerns over the septic system failure and the commercial use of the property. She also supports the immediate neighbor's concerns and opposes the intrusion of the macadam parking area into the Gargano property. In this respect, it need be emphasized that the site plan shows that the macadam area which intrudes into the Gargano property is not actually used for parking and therefore, the facts of this case are distinguishable from the issues generated in the Long Green Hotel and Maryland Line cases relating to commercial uses on neighboring R.C. properties.

Also testifying in opposition to the request was Kenneth J. Wells, who is in the process of constructing a home for himself and his family approximately 3,000 feet from the subject site on New Cut Road. He testified that he has been able to hear barking dogs from his property and he is concerned over the possible noise nuisance which may occur as a result of these animals. He also expressed concern over traffic and proper vehicular access to this site.

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A significant volume of testimony was received from Mr. & Mrs. Eller and Mrs. Eller's mother, Ms. Schmier, all of whom reside immediately adjacent to the site. All of the testimony was entirely convincing and credible and supported by a lengthy video tape which was received and shown at the hearing. The Protestants are particularly concerned over the disruption of the peaceful enjoyment of their property caused by the operation of the subject business at this site. They indicated that they are constantly irritated by the barking of the dogs which are maintained on the property. Other concerns as to the septic system and the intrusion across the property line into the Eller's property were also expressed. This is but a capsulation of the concerns expressed by Mr. & Mrs. Eller and Ms. Schmier, the record fully containing their testimony.

On behalf of Baltimore County, Robert Powell from the Sewage Disposal Section of the Department of Environmental Protection and Resource Management (DEPRM) testified that the septic system on the property is presently failing. He described the County's investigation into this matter and the remedial efforts suggested. Specifically, a holding tank with a 7-day retention capacity is to be installed. The tank will be equipped with an alarm system to alert the property owners when same needs to be emptied and regular inspections of the site will be undertaken. Mr. Powell indicated that the holding tank system was necessary in this particular instance because the soil conditions on site are very poor, due to the high water table and numerous springheads on the property and throughout this area.

Also testifying from Baltimore County was Sewell Price, an Assistant Supervisor with the Animal Control Division. He indicated that no license had yet been issued for a kennel operation at this location and

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that his agency was withholding approval of same until the zoning hearing was resolved.

Also testifying was Gary Freund, who fielded the initial complaint from the Ellers and Ms. Schmier. Mr. Freund testified that the surrounding zone of R.C. 5 is a rural residential zoning classification and that after his initial inspection of the site, he advised the property owners that a variance from Section 421.2 of the B.C.Z.R. would be required for continued operation.

In adjudging the merits of the proposed variance, an identification of the uses which exist on the property is first necessary. Fortunately, many of the uses are specifically defined in Section 101 of the B.C.Z.R. Therein, an animal boarding place is defined as "Any building, other structure, or land, or any portion thereof, which is used, intended to be used, or arranged for the boarding, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office, or veterinarian." Moreover, the definition goes on to discuss Class A animal boarding places as those places exclusively for dogs, cats, birds, or other household pets, and Class B animal boarding places as any other animal boarding places. Clearly, one of the uses on this site is a Class A animal boarding place. It is to be noted that this definition must be applied, not only to the outdoor caged dog kennel area as shown on the site plan, but also that portion of the building and its interior which is used for the boarding, breeding or other care of the dogs, cats and other animals which are kept on site. Thus, it is clear that a portion of the site is devoted to an animal boarding place use which, it is to be further noted, is permitted as of right in a B.R. zone, with certain restrictions, pursuant to Section 236.2 of the B.C.Z.R.

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As is also noted within the definition of an animal boarding place, said use does not include a veterinary hospital. Rather, a veterinarian is defined by Section 101 as "Any building or portion thereof which is used, intended to be used, or arranged primarily for treatment of animals by a veterinarian, where overnight care is allowed, and where all areas used for treatment or housing of animals are odor-proofed and sound-proofed." It is likewise, clear that the portion of this site operated by Dr. Garrett, is indeed, a veterinarian. Moreover, as is the case with the animal boarding place, a veterinarian is allowed. Specifically, the B.R. zoning designation allows uses permitted as of right in the B.M. and B.L. zones (see Section 230.9, 233.1, and 236.1 of the B.C.Z.R.)

Although both an animal boarding place and a veterinarian exists on the site, it is clear that at present, there is no pet shop operation. A pet shop is defined by Section 101 of the B.C.Z.R. as "A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets and related supplies and equipment." The definition is written in the injunctive, and therefore requires both the sale of animals and supplies and equipment. The uncontradicted testimony offered in this case was that animals are not sold from this location. Thus, the pet supply store and operation at this site is not a pet shop by definition, but a retail use which would be permitted in a B.R. area.

Lastly, consideration must be given as to whether a kennel operation exists on site. A kennel is defined in Section 101 of the B.C.Z.R. as "Any building or other structure or land or any portion thereof, which is used, intended to be used, or arranged for the housing of more than three (3) dogs, not counting puppies less than 4 months old, for the purposes of show, hunting, breeding, or sale, or as pets, excluding a farm or

a pet shop." This definition is not applicable here. Although similar to an animal boarding place, the kennel definition requires that the dogs be stored for the purposes of show, hunting, breeding, or sale, or as pets. None of these factors are present.

Therefore, in sum, it is clear that the site features a veterinarian and Class A animal boarding place, but does not include either a kennel or a pet shop. Section 421 of the B.C.Z.R. provides special regulations for these types of uses. Section 421.2 is not relevant in that it requires that the animal boarding place subject to that regulation be located in a residential zone. The animal boarding place and veterinarian in this case are located in a business zone, specifically, B.R.-C.R. However, the site is subject to the provisions of Section 421.2, which regulates the location of either an animal boarding place, kennel or pet shop in a business zone. It provides that no such business can be located within 200 feet of the nearest residential zone. As observed by Mr. Freund during his testimony, the adjacent properties are zoned R.C. 5. Although not expressly labeled a residential zone similar to the D.R. zoning classification, I concur with Mr. Freund's assessment that the R.C. 5 zone is indeed residential in nature. In fact, Section 1A04 of the B.C.Z.R. describes the R.C. 5 zone as a rural residential zoning classification which is established to provide for rural residential development. Dwellings are a permitted use in the R.C. 5 zone. Thus, the Petitioners are properly before me in requesting a variance from Section 421.2 of the B.C.Z.R.

For any variance to be granted, the Petitioner must satisfy the three-pronged test set forth in Section 307 of the B.C.Z.R. Specifically, the Petitioners must demonstrate that a practical difficulty or unreasonable hardship would result if strict adherence to the regulation is re-

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Date

By

quired. The concept of practical difficulty and unreasonable hardship has been well set forth by the Courts of this case. See McLean v. Soley, 270 Md. 208 (1973) and Anderson v. Board of Appeals Town of Chesapeake Beach, 22 Md. App. 28 (1974). Secondly, the Petitioner must show that the relief can be granted without detriment to the surrounding locale. Third, testimony and evidence adduced must show that a granting of the variance would be within the spirit and intent of the B.C.Z.R.

Based upon the overwhelming weight of the testimony and evidence presented, I am convinced that the Petitioners have not met their burden for an animal boarding facility. The testimony of the immediate neighbors was particularly compelling. The operation of the animal boarding facility at this locale has and will cause significant detrimental impact to the surrounding locale. Thus, the variance must be denied. It is to be particularly noted that this denial relates not only to the outdoor runs, but to the entire animal boarding operation, including the indoor facility. Thus, there shall be no boarding of animals at the facility, except as incidental to the operation of the veterinarian.

As to the veterinarian and pet store, these uses are not subject to Section 421.2 and thus, are not affected by the denial of the variance for an animal boarding facility. They may continue as regulated and permitted by the B.C.Z.R. and other relevant regulations of Baltimore County and the State of Maryland. It is worth noting that the definition of veterinarian indeed requires that all areas used for the treatment of animals be sound- and odor-proofed. Thus, by definition, this site must be operated in accordance with those requirements. I will leave it to the authorities at the Animal Control Board, in consultation with the Zoning Inspector with

ORDER RECEIVED FOR FILING

Date

By

ZADM and the representative of DEPRM to determine the exact steps which must be taken to odor-proof and sound-proof the subject facility.

In addition to the requested variance from Section 421.2, relief is also sought from the strict application of Section 413.2(F) as to signage. This variance was the subject of little attention during the hearing. However, the site plan and photographs show an attractively maintained sign which advertises the veterinary hospital and pet store. But for the removal of that portion which also advertises boarding, I shall permit the existing sign to remain. The sign appears to be in character with the surrounding locale and large billboard signs are shown not far from this site. The sign also appears to be appropriate in size, given the 1.5 acre size of this site. Thus, the variance as to the existing sign shall be granted.

Moreover, Section 26-127(c) of the Baltimore County Code provides the Zoning Commissioner with authority to impose reasonable restrictions and conditions with the grant of any variance. In approving the sign variance, restrictions may be conditioned upon the relief granted in this case. First, I will require the Petitioners to comply with whatever recommendations are ultimately mandated by DEPRM in order to resolve the septic system issue. This may very well be a moot issue upon the issuance of this Order in that testimony offered at the hearing was that a holding tank was to be installed shortly after the hearing. Obviously, Mr. & Mrs. Eller are also left with their rights available in a court of law regarding trespassing and improper discharge of waste onto their property. However, as a condition precedent to the relief granted herein, I will require the Petitioners comply with DEPRM's recommendations in this regard. Second, I will require the removal of the outdoor fenced area which has been utilized

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Date

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for the animal boarding operation. Owing to the timing of this Order and the potential onset of bad weather, I will provide the Petitioners with 180 days in which to remove this fencing. Lastly, I will require the Petitioners to make the site available for inspection by the Zoning Inspector to insure compliance with this Order.

Finally, a comment is in order as to future operations. Clearly, by denial of the variance for an animal boarding facility, this operation must cease immediately and boarding of animals at this site will no longer be allowed. However, the veterinary hospital use remains valid and appropriate. Moreover, there will surely be some overnight boarding of animals in connection with medical treatment received by them. The insertion of the restriction allowing inspector access to the site is designed in mind to prevent operation of an animal boarding facility under the guise of a veterinary hospital. There is no doubt that animals in need of medical treatment will be kept overnight and occasionally exercised outside as part of their rehabilitation. These operations are permissible as limited by the medical considerations determined by the veterinarian. However, the boarding of animals for profit is strictly prohibited.

Pursuant to the advertising and posting of this property and the public hearing held thereon, and for the reasons set forth above, the relief requested, as modified herein, shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of November, 1994 that the Petition for Variance seeking relief from Section 421.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 1.4 feet and 3 feet, more or less, for an existing kennel and "dog kennel area", respectively, in lieu of the

minimum required 200 feet each from the nearest residential zone, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 413.2(F) of the B.C.Z.R. to permit an existing sign of 121.5 sq.ft. total in lieu of the maximum permitted 100 sq.ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that a 30-day appeal period runs from the date of this Order. If an appeal is filed and, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Petitioners shall comply with any recommendations made by DEPRM to resolve the septic system issue.
- 3) Removal of the outdoor fenced area shall be accomplished within 180 days of the date of this Order.
- 4) The Petitioners shall immediately cease operating the animal boarding facility, as defined herein.
- 5) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.
- 6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 11/17/94
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

November 17, 1994

(410) 887-4386

Robert R. Bowie, Jr., Esquire
29 W. Susquehanna Avenue, Suite 600
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
S/S Belair Road, 3500' NE of the c/l of Sunshine Avenue
(12301 Belair Road)
11th Election District - 5th Councilmanic District
Brian H. Fullerton and Cecelia Garrett - Petitioners
Case No. 95-63-A

Dear Mr. Bowie:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502, Towson, Md. 21204

Mr. Kenneth Wells
7403 New Cut Road, Kingsville, Md. 21081

Ms. Diane T. Neas
7447 Mt. Vista Road, Kingsville, Md. 21081

Ms. Charlotte Pine
697 Baltimore Avenue, Towson, Md. 21204

DEPRM; People's Counsel; File



11-4-94

RECEIVED

NOV 4 1994

IN THE MATTER OF:

12301 Belair Road-
Celebrie Veterinary Hospital
S/S Belair Road, 3500'+/-
NE of c/1 Sunshine Avenue
11th Election District -
5th Councilmanic

ZADM

Case No.: 95-63-A

Item No. 60

Petitioners: Brian Fullerton
& Cecelia Garrett

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*
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*

PETITIONERS' POST HEARING BRIEF

Petitioners, Brian Fullerton and Cecelia Garrett, (hereafter "Petitioners"), by their attorneys, Robert R. Bowie, Jr., and Bowie & Jensen, file this Petitioners' Post Hearing Brief and state:

On July 29, 1994, Petitioners received a Zoning/Correction notice. On August 19, 1994, a revised Petition for Variance was filed by Petitioners with the appropriate accompanying papers.

On October 19, 1994, Petitioners argued this matter before Zoning Commissioner, Larry Schmidt. After the hearing, counsel for Petitioners requested the opportunity to provide a post hearing memorandum in order to brief the court on the applicable zoning law.

A. Does Section 421.2 Apply to the Facts of this Case?

The first question of consideration is whether Section 421.2 applies to the facts before the court.

Section 421.2 states:

Where an animal boarding place or kennel or pet shop is allowed in a business or industrial zone, either as a special exception or as a permitted use, no part of such use shall be located within 200 feet of the nearest residential zone. (Emphasis Added)

1. The facts in this case establish that the Petitioners'

business is not a "kennel". A kennel is defined as:

Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the housing of more than three dogs, not counting puppies less than four months old, for purposes of show, hunting, breeding, or sale, or as pets, excluding a farm or pet shop. (Emphasis Added)

The Petitioners are running a veterinary and providing veterinary services to a wide range of animals but there is nothing in the record that supports that the Petitioners' business was keeping dogs "for purposes of show, hunting, breeding, or sale, or as pets."

2. The facts of this case also establish that the Petitioners were also not operating a "pet shop." A pet shop is defined as:

A store for the sale of dogs, cats, birds, tropical fish, and/or other domestic pets, and related supplies and equipment. (Emphasis Added)

The Petitioners are in the business of treating animals and boarding animals, not selling them. There is no evidence in the record that the Petitioners are selling any pets or animals.

3. The more difficult question is whether the Petitioners' activities qualify as an "animal boarding place." Animal boarding place is defined as:

Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the boarding, breeding or other care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarian.

There are several reasons why the facts of this case establish that

the Petitioners are not operating on the site an "animal boarding place."

First, the Petitioners are operating on the land a veterinarian's office and veterinarian. Veterinarian's office is defined as:

An office which is maintained by a veterinarian for treatment of animals, and in which no animal is kept over night. (Emphasis Added)

However, the definition of a veterinarian provides for "overnight care." Veterinarian is defined as:

Any building or portion thereof which is used, intended to be used, or arranged primarily for treatment of animals by a veterinarian, where overnight care is allowed, and where all areas used for treatment or housing of animals are order-proof and sound proofed. (Emphasis Added)

Since the Petitioners, by all accounts, are operating a "veterinarian" and thus not an "animal boarding place or kennel or pet shop", Petitioners cannot be held subject to the limitations imposed by Section 421.2 and no variance is required.

B. The Boarding of Animals at the Veterinarian is Not a Violation of Section 421.2.

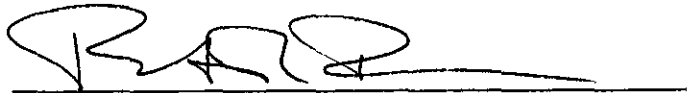
The Court raised its concern that the boarding of animals at the facility might establish that the Petitioners were inappropriately using the land despite the veterinarian exception. How can boarding of animals be prohibited in an "animal boarding place" but permitted if it takes place in a veterinarian? The answer depends on the primary use of land. The exception is provided for a veterinarian because the land use is "primarily for

treatment" rather than the primary use as an "animal boarding place" which is "used, intended to be used, or arranged for the boarding, breeding or other care of animals for profit..." The definition of "veterinarium" does not require that the land use be "exclusively" for treatment of animals by a veterinarian. Thus the secondary use of the land can be permitted for boarding if the primary use is for veterinary treatment.

In fact, the primary use of the land in each of the above definitions for "animal boarding place", "kennel", "pet shop", "veterinarian's office" or "veterinarium" all have overlapping secondary uses allowed. Pet shops must board animals in order to sell them but the primary "use" defining the term is the "sale of dogs, cats, birds, tropical fish, and/or other domesticated pets...". The primary use in the case of "kennel" is the "housing of more than three dogs... for purpose of show, hunting, breeding or sale or as pets..." Thus boarding by a veterinarian as long as it is a secondary use should be permitted as long as the other limitations, such as sound proofing is imposed on this "housing" of the boarded animals. For the foregoing reason the facts of this case show no violation of Section 421.2 for boarding of animals provided that the facilities are sound proofed.

The Petitioners are willing to sound proof all of the facilities where necessary and would only make limited use of the outdoor kennel including the walking of dogs on a leash in order to satisfy the concerns of the protestants. This seems to be more restrictive than the requirements of the Section. These self-

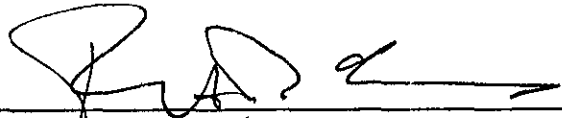
imposed restrictions would seem to be in harmony with the primary and secondary uses permitted in granting the special exception which has been requested. The limited secondary use of the veterinarian for temporary boarding of its clients' dogs is an important service of a veterinary hospital and it would be very damaging to the use of the land as a veterinary hospital if it is prohibited.



Robert R. Bowie, Jr.
Bowie & Jensen
29 W. Susquehanna Avenue
Suite 600
Towson, Maryland 21204
(410) 583-2400
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of November, 1994, a copy of the foregoing Petitioners' Post Hearing Brief was mailed postage prepaid, to J. Carroll Holzer, Esquire, Towson, Maryland 21204.



Robert R. Bowie, Jr.

11-4-94

IN THE MATTER OF
CELEBRIE VETERINARY HOSPITAL
12301 BELAIR ROAD
KINGSVILLE, MARYLAND 21087

* BEFORE
* THE ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 95-63-A

PETITION FOR VARIANCE

* * * * *

MEMORANDUM OF PROTESTANTS

Mr. and Mrs. Ray Eller and Doris Schmier, Protestants, by Holzer and Lee, J. Carroll Holzer, submit this Memorandum in Lieu of Final Argument before the Zoning Commissioner.

STATEMENT OF FACTS

Petitioners, Brian Fullerton et al., on behalf of Celebrie Veterinary Hospital, located at 12301 Belair Road, Kingsville, Maryland, requested a Petition for Variance from Sections 421.1 and 421.2 of the Baltimore County Zoning Regulations, permitting an outdoor kennel, veterinarian, animal boarding place, within 200 feet of the nearest residential zone. They also asked for a variance for an existing sign with an area of 121.5 square feet. Protestants, Ray and Doris Eller, are adjacent property owners, and Mrs. Eller's mother, Doris Schmier, is also an adjacent property owner with property located north and east of the subject site.

The site was previously utilized as a lawn and garden operation prior to the acquisition within the last two years by the Petitioners. As a lawn and garden use, it had not been intrusive into the community, and there existed no septic, environmental, or noise problems as a result of the long use of the site by a lawn

LAW OFFICE

HOLZER AND LEE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MARYLAND
21204

(410) 825-6961
FAX: (410) 825-4923

and garden supply store. After the acquisition of the site by the Petitioner, Brian Fullerton, approximately a year and a half ago, problems began for the Ellers.

1. The environmental problems began after the installation of a septic tank by the Petitioner, without a permit, installed along the joint property line with the Ellers. Immediately after the installation, the Ellers began to notice a terrible sewer smell emanating from the subject site and running across the property of Mr. and Mrs. Eller. After repeated complaints, it was ultimately confirmed by Baltimore County through dye testing that the point of origin of the septic problem was the recently-installed septic tank along the property line.
2. The Petitioner improperly installed a fenced dog run area, a portion of which was actually on the Ellers' property, as testified at the hearing. This run, while pointed out by the developer's own engineer in August 1994, was not corrected until shortly before the hearing before the Zoning Commissioner and in fact has not been completely resolved at the present time.
3. Beginning in May 1994, the Petitioner permitted dogs to be placed in an outdoor kennel which he constructed adjacent to the Ellers' property consisting of a run and sixteen cages.

It was testified and acknowledged by all parties that the dogs were basically put out in these kennels at 7:00 a.m. and often were still out there at 7:00 p.m. The Ellers, Mrs. Schmier, along with Mr. Wells, a property owner approximately 3000 feet away, testified as to the incessant barking and noise created by this outdoor facility of the Petitioner. In addition, a videotape of multiple days of barking was played before and submitted to the Zoning Commissioner as a Protestants' Exhibit.

It was also pointed out that the veterinarian, kennel, and boarding operation has been operating without a state permit at this point. Mr. Fullerton acknowledged that the facility boarded approximately forty animals during the summer months of 1994. Fullerton also testified that on the site they have a retail pet store selling supplies, but not pets, they perform grooming services, boarding services, and veterinary medical services. In addition, there is a carpet store also located on the site.

The Greater Kingsville Community through Charlotte Pine and Diane Fefferman testified against the variance being granted, as well as expressing concern for the use of any RC zoned property to support this commercial venture.

The Planning Office, in its report of August 31, 1994, summarized the history of the site, indicating "27 years ago we were correct...the original re-zoning for the nursery however since, evolved into overdevelopment of a commercial site which negatively impacts the adjacent residential property." The staff strongly recommended denial unless the Zoning Commissioner could find some way to soundproof the operation.

ISSUES PRESENTED

1. The issue of the use of RC property, even with permission of the property owner, is improper.
2. Use of the Ellers' property for the dog run should be prohibited.
3. The septic-environmental problem must be corrected.
4. Other pipes draining upon the Ellers' property must be prohibited.
5. The outside dog run on the north side of the facility should be removed.
6. The sixteen wire outdoor cages recently added by Mr. Fullerton should be removed.

7. The variance requesting a one-foot plus or minus setback from residential property should be denied.

LEGAL ARGUMENTS

First, it should be determined that the Baltimore County Zoning Regulations, Sections 101, 102.1, and 421.2, require that where an animal boarding place, kennel, or pet shop, is allowed in a business or industrial zone, either as a special exception or as a permitted use, no part of such use shall be located within two hundred feet of the nearest residential zone (Section 421.2). Protestants submit that that includes the existing building as described on the plats submitted as "Veterinary Hospital, Kennel, and Pet Supply," and it also means the open dog run which was the fenced area immediately to the north of the building which encroached upon the Ellers' property, as well as the wire cages recently constructed. It should be noted that a zoning violation reciting those section numbers has been issued by the Office of Zoning Administration for Baltimore County on August 22, 1994.

In analyzing the operation of the Celebrie facility, it is clear that it meets the definition of animal boarding place, Class A, under the Baltimore County Zoning Regulations, Section 100. Protestants would also submit that the building is used as a kennel in that it is arranged for the "housing of more than three dogs ...or as pets," excluding a farm or pet shop. Protestants believe that this is a kennel within the Baltimore County Zoning

definitions, as so cited. It is clear that it also meets the definition of a veterinarian. It should be noted in the definition of veterinarian that all areas used for treatment or housing of animals must be odorproof and soundproof. Clearly here, the outdoor runs do not meet that requirement. The Zoning Commissioner asked whether the veterinarian's office in a veterinarian is required to be located beyond two hundred feet of a residential zone; Protestants must acknowledge that it appears in Section 421.2 that a veterinarian's office or a veterinarian does not have to be set back to that extent. Protestants would suggest that the reason for that is contained in the aforesaid definition of veterinarian, which requires all areas to be odorproof and soundproof. This implies that a veterinarian could be closer than two hundred feet to a residential zone, but obviously it must be soundproof so as not to cause the types of stress and excess noise that have been generated by this facility and disturbed the Ellers' and Mrs. Schmier's peace of mind throughout the summer of 1994.

Section 307 of the Baltimore County Zoning Regulations permitting variances requires the Zoning Commissioner to make certain determinations, and that first, the variance may be granted only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance. Protestants do not believe that criteria is met in this case.

Second, where strict compliance would result in practical difficulty or unreasonable hardship: it is suggested that there is no practical difficulty in this instance in that the Petitioner acquired the property without even checking the property lines and the zoning requirements.

Third, the variance shall be granted only if it is in strict harmony with the spirit and intent of said regulations. Here, the Planning Staff has clearly pointed out that this criteria is not met.

Finally, that the relief granted shall not be injurious to the health, safety, and general welfare of the community. It is here, with this criteria, that is the most obvious, failure of the Petitioners based upon the testimony of the Protestants and the acknowledged testimony of the Petitioner as to the number of dogs barking and the long hours of abuse that the Protestants have been subject to since May 1994.

Protestants will not submit case law concerning the variances in view of the Zoning Commissioner's familiarity with the application thereof to the Baltimore County Zoning Regulations.

RELIEF REQUESTED

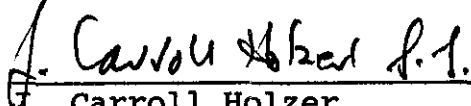
1. The Zoning Commissioner, at the conclusion of the Hearing, indicated some initial thought concerning his possible

decision. Protestants would specifically request that the outside dog run in the back of the present facility on the north side of the building, adjacent to the Ellers' property, be eliminated as an outdoor dog run, even on the property owned by the Petitioner, in that it places the run in an area closer to Mr. Schmier's house and has greater potential for causing problems such as have been exhibited all summer long.

2. Protestants request that the sixteen outdoor kennels be physically removed completely from the property and that the Zoning Commissioner order that no overnight boarding of any animals be permitted, either outside or inside of this facility, and that all boarding of animals cease operation at this location. It is clear that the size of the whole lot would preclude the Petitioner from complying with this regulation unless a variance is granted.
3. That the Zoning Commissioner not permit any area on the property designed for the outdoor keeping of animals on this site and that if such a walking area is necessary for the operation of the veterinarian, that the Zoning Commissioner require that such animals may only be walked outside if there is a handler and person responsible to ensure that the animal is not left outside.

4. That the Baltimore County Department of the Environment required compliance with all Baltimore County regulations and code and correct the septic problem which is causing raw sewerage from the septic tank to flow across the Ellers' and Mrs. Schmier's properties.
5. To require such compliance promptly in that this problem has been going on for over a year and a half with little or no correction.
6. To require that all operations of the veterinarian, if permitted to exist, be soundproof and odorproof as required by the Baltimore County Zoning Regulations.

Respectfully submitted,


J. Carroll Holzer
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
(410) 825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 4th day of November 1994, a copy of the foregoing Memorandum in Lieu of Final Argument was mailed, postage pre-paid, to Bob Bowie, Esquire, Bowie and Jensen, 29 West Susquehanna Avenue, Suite 600, Towson, Maryland, 21204.

J. Carroll Holzer
J. Carroll Holzer

10-31-74

RE: PETITION FOR VARIANCE	*	BEFORE THE
12301 Belair Road - Celebrie		
Veterinary Hospital, S/S Belair Rd,	*	ZONING COMMISSIONER
3500'+/- NE of c/l Sunshine Avenue		
11th Election Dist. 5th Councilmanic*		OF BALTIMORE COUNTY
 Brian H. Fullerton et al.	*	 CASE NO. 95-63-A
Petitioners		

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Robert R. Bowie, Jr., Esquire, 29 W. Susquehanna Avenue, Suite 600, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

60



Petition for Variance

to the Zoning Commissioner of Baltimore County

95-63-A

for the property located at

12301 Belair Road, Kingsville, MD

which is presently zoned

BR-CR

21087

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

(See attached Exhibit A)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

(see attached)
Exhibit B

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:
Robert R. Bowie, Jr., Esquire

(Type or Print Name)

Signature

29 W. Susquehanna Avenue
Suite 600

Towson, MD 21204 Phone No. 410-583-2400

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Brian H. Fullerton, OWNER/MANAGER

(Type or Print Name)

Signature

Cecelia Garrett

(Type or Print Name)

Signature

12301 Belair Road 410-592-7060

Address Phone No

Kingsville, MD 21087

City State Zipcode

Name, Address and phone number of representative to be contacted.

Robert R. Bowie, Jr., Esquire

29 W. Susquehanna Avenue, Suite 600

Towson, MD 21204 410-583-2400

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING
unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: R.T. DATE 8-12-94

ITEM # 60

ORDER RECEIVED FOR FILING

Date 11/17/94

Printed with Soybean Ink
on Recycled Paper



CORRECTED 8/19/94

EXHIBIT A

95-63-A

Section 421.2 - to allow an existing setback for a kennel of 1.4', more or less, and existing setback of 3', more or less, for "dog kennel area" (per site plan) in lieu of the minimum required 200' from the nearest residential zone, respectively.

Section 413.2(F) - to allow an existing sign with an area of 121.5 sq. ft., in lieu of the required 100 sq. ft. maximum area.

ITEM # 60

95-63-A

EXHIBIT B

On January 10, 1994, Brian Fullerton applied for and was granted, on behalf of Celebrie Veterinary Hospital, a building permit to construct an outdoor kennel run to allow animals to exercise at different times throughout the day. The building permit allowed for the erection of a 6' high chain link fence on the rear of the property to be used as a kennel run; to have chain link partitions and roof. On January 10, 1994, final approval for the permit was granted.

Accordingly, Petitioner constructed the outdoor kennel run as permitted by the County. The Petitioner's business has been a part of the community for two (2) years. The Petitioner and his wife are residents of the Kingsville area as well. Petitioner's business has grown to where the needs of the business have increased and therefore, the outdoor kennel run is essential to the growth of the business.

For Petitioner not to be granted its variances would create a hardship in that: (a) Petitioner has expended money for the improvements to their property which were, to the best of their knowledge, performed procedurally correct according to the Baltimore County Zoning Regulations; (b) it would be detrimental to the Petitioner's business in that it would create a decrease in animals to be boarded; (c) Petitioner provides an important service to the community; and (d) for those other reasons to be set forth before the Zoning Commissioner.

ITEM #60

GORDON T. LANGDON
DENNIS M. MILLER
EDWARD F. DEIACO-LOHR
BRUCE E. DOAK

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors

SUITE 100
320 EAST TOWSONTOWN BOULEVARD
TOWSON, MARYLAND 21286-5318

410-823-4470
FAX 410-823-4473

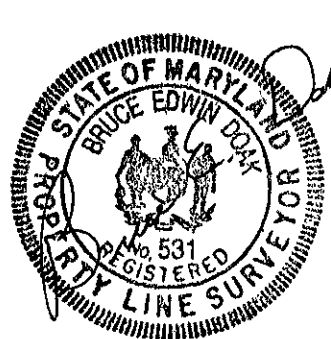
EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD
PHILIP K. CROSS
OF COUNSEL
JOHN F. ETZEL
WILLIAM G. ULRICH

95-63-A

ZONING DESCRIPTION
12301 BELAIR ROAD
Eleventh District - Baltimore County, Maryland

Beginning for the same on the southeast side of Belair Road which is 60 feet wide, at a distance of 3500 feet, more or less, northeast of the centerline of Sunshine Avenue, thence leaving said Belair Road the three following courses and distances: 1) South 39 degrees 49 minutes East 325.13 feet thence, 2) South 3 degrees 49 minutes East 199 feet and 3) North 54 degrees 31 minutes West 390.70 feet to southeast side of Belair Road, thence running and binding on the southeast side of Belair Road, North 23 degrees 35 minutes East 241.63 feet to the place of beginning.

Containing 1.5 acres of land, more or less.



ITEM # 60

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-63-A

District 11th

Date of Posting 9/3/94

Posted for: Variance

Petitioner: Brian & Cecelia Corbett

Location of property: 12301 Belair Rd., S/S, N/E of Sunshere Atp
Celebre V. t. Hosp

Location of Signs: Every roadway on property being zoned

Remarks: _____

Posted by _____

Signature

Date of return: 9/9/94

Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-63-A

District 11th

Date of Posting 1/6/95

Posted for: Appeal

Petitioner: Brian H. Fullerton & Cecilia Garrett

Location of property: 12301 Belair Rd, S/S, 3500' NE / Sunshine Ave.

Location of Signs: Facing road way, on property to be appealed

Remarks:

Posted by M. Stealy
Signature

Date of return: 1/13/95

Number of Signs: 1

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:

95-63-A (Item 60)
12301 Belair Road
Celebria Veterinary
Hospital
S/S Belair Road, 3500'
+/- NE of c/ Sunshine Ave.
11th Election District
5th Councilmanic

Petitioner(s):

Brian H. Fullerton
and Capella Garrett

HEARING: TUESDAY,

SEPTEMBER 27, 1994 at
2:00 p.m. in Rm. 118, Old
Courthouse

Variance to allow an existing setback for a lot of 1.4 ft. (more or less) and an existing setback of 5 ft. (more or less) for "dog kennel area" in lieu of the minimum required 200 feet from the nearest residential zone, respectively; and to allow an existing sign with an area of 121.5 square feet in lieu of the required 100 square feet maximum area.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

9/049 - September 1.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

Sept. 2, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Sept. 1, 1994

THE JEFFERSONIAN,

A. H. Henikson
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
SCCELLANEOUS CASH RECEIPT

No. 150288

DATE 12/28/94 ACCOUNT R-001-6150

AMOUNT \$ 210.00

RECEIVED Robert R. Bowie, Jr.
FROM: Appeal 95-63-A
(12301 Belair Road)
Sign

FOR:

VALIDATION OR SIGNATURE OF CASHIER

DIS. NON
WRITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
SCCELLANEOUS CASH RECEIPT

No. 30288

DATE 12/28/94 ACCOUNT R-001-6150

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FROM: Appeal 95-63-A
(12301 Belair Road)
Sign

FOR:

VALIDATION OR SIGNATURE OF CASHIER

DIS. NON
WRITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
95-63-A

Account: R-011-6150

Number 60

R.T

Date 8/12/94

CELEBRIE VETERINARY HOSP.
12301 Belair Rd. Kingsville, MD

020 — VARIANCE — \$ 250⁰⁰

080 — SIGN — \$ 35⁰⁰

TOTAL - \$ 285⁰⁰

DIA01#0510MICMRC
BA C002:47PMDB-12-94

\$285.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 60

Petitioner: Celebrie Veterinary Hospital

Location: 12301 Belar Road, Kingsville MD 21087

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Brian H. Fullerton

ADDRESS: 12301 Belar Rd.

Kingsville, MD 21087

PHONE NUMBER: 592-7060

AJ:ggs

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY
September 1, 1994 Issue - Jeffersonian

Please forward billing to:

Brian H. Fullerton
12301 Belair Road
Kingsville, Maryland 21087
592-7060

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-63-A (Item 60)
12301 Belair Road - Celebrie Veterinary Hospital
S/S Belair Road, 3500'+/- NE of c/l Sunshine Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Brian H. Fullerton and Cecelia Garrett
HEARING: TUESDAY, SEPTEMBER 27, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Variance to allow an existing setback for a kennel of 1.4 ft. (more or less) and an existing setback of 3 feet (more or less) for "dog kennel area" in lieu of the minimum required 200 feet from the nearest residential zone, respectively; and to allow an existing sign with an area of 121.5 square feet in lieu of the required 100 square feet maximum area.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 26, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-63-A (Item 60)
12301 Belair Road - Celebrie Veterinary Hospital
S/S Belair Road, 3500'+/- NE of c/l Sunshine Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Brian H. Fullerton and Cecelia Garrett
HEARING: TUESDAY, SEPTEMBER 27, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Variance to allow an existing setback for a kennel of 1.4 ft. (more or less) and an existing setback of 3 feet (more or less) for "dog kennel area" in lieu of the minimum required 200 feet from the nearest residential zone, respectively; and to allow an existing sign with an area of 121.5 square feet in lieu of the required 100 square feet maximum area.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Brian Fullerton and Cecelia Garrett
Robert R. Bowie, Jr., Esq.
Ray Eller
Doris Schmier

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 12, 1994

NOTICE OF REASSIGNMENT

Rescheduled from 9/27/94

CASE NUMBER: 95-63-A (Item 60)

12301 Belair Road - Celebrie Veterinary Hospital

S/S Belair Road, 3500'+/- NE of c/l Sunshine Avenue

11th Election District - 5th Councilmanic

Petitioner(s): Brian H. Fullerton and Cecelia Garrett

Variance to allow an existing setback for a kennel of 1.4 ft. (more or less) and an existing setback of 3 feet (more or less) for "dog kennel area" in lieu of the minimum required 200 feet from the nearest residential zone, respectively; and to allow an existing sign with an area of 121.5 square feet in lieu of the required 100 square feet maximum area.

HEARING: THURSDAY, OCTOBER 6, 1994 at 2:00 p.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland.

A handwritten signature in cursive script, reading "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: Celebrie Veterinary Hospital
Robert R. Bowie, Jr.
Bruce Doak
Ray Eller
Doris Schmier



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 27, 1994

NOTICE OF REASSIGNMENT
AGREED DATE.....NO FURTHER POSTPONEMENTS

CASE NUMBER: 95-63-A (Item 60)
12301 Belair Road - Celebrie Veterinary Hospital
S/S Belair Road, 3500'+/- NE of c/l Sunshine Avenue
11th Election District - 5th Councilmanic
Petitioner(s): Brian H. Fullerton and Cecelia Garrett

Variance to allow an existing setback for a kennel of 1.4 ft. (more or less) and an existing setback of 3 feet (more or less) for "dog kennel area" in lieu of the minimum required 200 feet from the nearest residential zone, respectively; and to allow an existing sign with an area of 121.5 square feet in lieu of the required 100 square feet maximum area.

HEARING: WEDNESDAY, OCTOBER 19, 1994 at 11:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: Celebrie Veterinary Hospital
Robert R. Bowie, Jr., Esq.
Bruce Doak
Ray Eller
Doris Schmier
J. Carroll Holzer, Esq.





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 31, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-63-A

BRIAN H. FULLERTON /CECILIA GARRETT -
Petitioners S/s Belair Road, 3500' NE of c/l
of Sunshine Avenue (12301 Belair Road)
11th Election District
5th Councilmanic District

VAR -To permit setbacks of 1.4' & 3' for
existing kennel & "dog kennel area" in lieu of
minimum required 200' from nearest residential
zone; existing sign of 121.5 sq. ft. in lieu
of maximum permitted 100 sq. ft.

11/17/94 -Z.C.'s Order in which Petition for
Variance DENIED as to setbacks; Petition for
Variance GRANTED as to sign.

ASSIGNED FOR:

WEDNESDAY, MAY 10, 1995 at 10:00 a.m.

cc: Robert R. Bowie, Jr., Esquire
Brian H. Fullerton /Cecilia Garrett

Counsel for Petitioners
Petitioners

J. Carroll Holzer, Esquire

Counsel for Protestants -
Ray Eller /Doris Schmur

Diane T. Neas
Charlotte Pine

Protestant
Protestant

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant



CASE NO. 95-63-A

Brian H. Fullerton and Cecelia Garrett -
Petitioner

S/s Belair Road, 3500 ft. NE of the c/l
of Sunshine Avenue (12301 Belair Road)

11th Election District

Appealed 12/16/94

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEP. 07 1994

Robert R. Bowie, Jr., Esq.
29 W. Susquehanna Avenue, Suite 600
Towson, Maryland 21204

RE: Item No. 60, Case No. 95-63-A
Petitioner: Brian H. Fullerton/Celebria Veterinary Hosipal

Dear Mr. Bowie:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 19, 1994 and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- 1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.
- 2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.
- 3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Coordinator

WCR:ggs



Printed with Soybean Ink
on Recycled Paper



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary

Hal Kassoff
Administrator

95-63

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 460 (RT)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for

David Ramsey, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Gwen Stephens, ZADM

FROM: Jeffrey Long
Office of Planning & Zoning

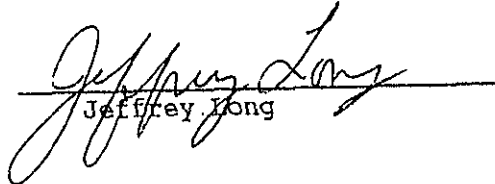
SUBJECT: Zoning Advisory Comments

DATE: August 26, 1994

Please be advised that additional time is required to review the following Petitions:

ITEM NOS. 41, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, (60),
and 61.

Please contact me if you have any questions or require additional information.


Jeffrey Long

JL:bjs

RECEIVED

AUG 29 1994

ZADM

STEPHENS.JL/PZONE/ZAC1

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/25/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 60, 62, 63, 64, 65,
67, 68, 69, 70, 71 AND 72.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

September 26, 1994

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #60 *F* Celebrie Veterinary Hospital
12301 Belair Road
Zoning Advisory Committee Meeting of August 29, 1994

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

This office made a site inspection of the property which revealed several problems with the existing well and septic system.

Another inspection and meeting with Mr. Brian Fullerton (owner) is planned for October 4, 1994 in hopes of finding solutions for these problems.

In light of the aforementioned, it is requested that any approval of this variance by the zoning commissioner be conditioned upon meeting this Department's comments.

✓
JLP:CB:sp

CELEBRIE/DEPRM/TXTSBP

SEP 28 1994

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

95-63-A
9/27 P.P.
10/19 [signature]

September 26, 1994

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #60 - Celebrie Veterinary Hospital
12301 Belair Road
Zoning Advisory Committee Meeting of August 29, 1994

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✓
JLP:CB:sp

CELEBRIE/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: August 31, 1994

SUBJECT: 12301 Belair Road

RECEIVED

SEP 8 1994

ZADM

INFORMATION:

Item Number: 60

Petitioner: Fullerton/Garrett Property

Property Size:

Zoning: B.R.-C.R.

Requested Action:

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments.

The subject property was rezoned through a Petition for Zoning Reclassification on January 23, 1967. The Office of Planning and Zoning, at that time, indicated that the proposed B.R. zoning "is the most permissive of all of the commercial zones and feels that the establishment of those broad potentials...would not be in harmony with the [residential] potentials of adjoining properties."

Decades later, a staff issue to apply the C.R. District was raised on the subject site as part of the 1992 Comprehensive Zoning Map Process. This was done to ensure that any future development would be consistent with the rural character of the Kingsville area. Ultimately, the County Council decided that the subject B.R. parcel should be overlain with the C.R. District.

By way of the instant case, this office once again has an opportunity to provide land use comments. While this office does not routinely provide a zoning history in most Petition review cases, the temptation was too great in this matter to do otherwise. We find it interesting that reservations expressed by this office 27 years ago were so incredibly foretelling.

The original rezoning provided for a nursery supply and service center; however, the property has since evolved into an overdeveloped commercial site which negatively impacts adjacent residential properties.

Unless the applicant is able to demonstrate to the Zoning Commissioner that any noise emanating from the dog kennel area can be effectively soundproofed, staff strongly recommends the applicant's request be denied.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

PK/JL:lw

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: September 6, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for September 6, 1994
Item No. 60

The Developers Engineering Section has reviewed the subject zoning item. This site is located on Belair Road (Route 1), and all improvements, entrances, drainage requirements and construction affecting the State Road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration, in addition to those of Baltimore County.

The entrance to this site is to be built to the Baltimore County Department of Public Works Standard for a single commercial entrance, Plate R-32.

RWB:sw

RECEIVED
SEP 8 1994

ZADM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Gwen Stephens

August 15, 1994

FROM: James H. Thompson

RE: Item No. 60
Celebrie Veterinary Hospital
12301 Belair Road
11th Election District

Please note that the above petition is subject to an outstanding zoning enforcement case, C-94-2405.

When this matter is set for a public hearing, please notify:

Ray Eller
12305 Belair Road
Kingsville, Maryland 21087

Doris Schmur - *SCHMUR*
12309 Belair Road
Kingsville, Maryland 21087

JHT/hek

c: Ray Eller
Doris Schmur

BALTIMORE COUNTY, MARYLAND

Inter-office Correspondence

TO: Memo to the file

DATE: October 21, 1994

FROM: Lawrence E. Schmidt
Zoning Commissioner

SUBJECT: Case No. 95-63-A
Diary file for Nov. 4, 1994

Memorandums are to be submitted by the attorneys of record on
Nov. 4th.

The case comes before me primarily on a variance from Section 421.2 of the BCZR as it relates to the required distances between "animal care" facilities and adjoining residential land. Significant volume of testimony was taken regarding the case which is reflected in my notes. There are a couple of issues which need to be addressed within my opinion. The first is to identify the uses that go on site. It appears that there is a veterinarian facility on site, i.e., where a licensed vet actually cares for hospitalized animals; a pet store (as distinguished from a pet shop) on site and an animal boarding facility and/or kennel. Clearly the veterinary

hospital exists. The pet shop does not exist because there is no evidence of any sale of animals occurs. From my reading of the definition in Section 101, a pet shop would have to have sale of actual animals and not just the sale of animal supplies which is what goes on at this site. The final activity is a kennel or animal boarding place. These definitions run closely together and I will have to make a decision as to what it is.

Interestingly, Section 421.2 has a setback only from the animal boarding or kennel; thus, as I advised counsel at the end of the case, I do not believe that 421.2 is applicable to the veterinarian facility or the pet store. Thus, my opinion should say that these Petitioners have a right to continue to conduct the veterinary hospital on the site and sell pet supplies at the pet store as opposed to a pet shop, since neither one of those uses are regulated by 421.2.

Just as clearly, the variance should not be granted as it relates to the kennel/animal boarding facility. The testimony here was overwhelming that the use is very detrimental to the house, safety and general welfare of the community and should not be allowed.

Another fact that I should put in my opinion is to designate the adjoining the R C 5 land as residential. Gary Freund's testimony on this point was persuasive that the R.C. designation is a rural residential classification. The regulation calls for setbacks from residential zones and hypothetically, an argument could be raised that that includes D.R. zones only. However, I think it should be extended to R.C.5 in this case. Thus, I anticipate writing an order denying the variance for the animal boarding

facility and requiring removal of the outside runs, but in any event, including the restriction that there be no boarding of animals on the site and no keeping of animals outside of the site. Also, the order will provide that the hospital can stay and that the pet supply store can stay as long it does not become a pet shop. I am inclined to give the Petitioner 60 days or so to remove the outside runs.

As to the sign variance, there was not much presented although a permit was given; probably, do not have a problem with that and would grant the variance because the sign is not appreciably larger than required under the regulations. The memos are due Nov. 4, 1994, but I doubt any argument could be raised that would change my thinking from what is contained herein.

LES:mmm

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

January 4, 1995

J. Carroll Holzer, Esquire
Holzer and Lee
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Petition for Variance
S/S Belair Road, 3,500 ft. NE of the
C/L of Sunshine Avenue
(12301 Belair Road)
11th Election District
5th Councilmanic District
Brian H. Fullerton and Cecilia Garrett-Petitioner
Case No. 95-63-A

Dear Mr. Holzer:

Please be advised that an appeal of the above-referenced case was filed in this office on December 16, 1994 by Robert R. Bowie, Jr., Esquire on behalf of Brian Fullerton and Cecelia Garrett. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
Director

AJ:jaw

c: Ms. Diane T. Neas
Ms. Charlotte Pine
People's Counsel



APPEAL

Petition for Variance
S/S Belair Road, 3500 Ft. NE of the C/L of Sunshine Ave
(12301 Belair Road)
11th Election District - 5th Councilmanic District
Brian H. Fullerton and Cecilia Garrett-PETITIONER
Case No. 95-63-A

Petition(s) for Variance
Description of Property
Certificate of Posting
Certificate of Publication
Entry of Appearance of People's Counsel
Zoning Plans Advisory Committee Comments
Petitioner and Protestant Sign-In Sheets
Plan to Accompany Variance dated August 9, 1994
Corrected Plan to Accompany Varaince Dated August 19, 1994
Video (not marked as exhibit)

Petitioner's Exhibits: 1 - No Exhibit Marked No.1
2 - Fifteen Photographs
3 - Copy Building Permit B215857
4 - Letter of Understanding from Peter V.
Gargano and Brian Fullerton
Protestant's Exhibits: 1 - Tax Assessment Map with highlighted area
2 - Belair Road Plan
3 - Office of Planning and Zoning Comments
4 - Letter to the Zoning Commissioner dated
October 18, 1994
5 - Copy of Six Pictures/Plan to Accompany
Submission of Photographs as Evidence

Inter-Office Correspondence from James H. Thompson dated Aug. 15, 1994
Letter to Robert R. Bowie, Jr., Esquire dated August 22, 1994
Inter-Office Correspondence from Lawrence E. Schmidt dated Oct. 21, 1994
Memorandum of Protestants dated November 4, 1994
Petitioners' Post Hearing Brief dated November 4, 1994
Zoning Commissioner's Order dated November 17, 1994 (Granted)
Notice of Appeal received on December 16, 1994 from Robert R.
Bowie, Jr. on behalf of Brian Fullerton and Cecelia Garrett

c: Robert R. Bowie, Jr., Esquire, Bowie & Jensen, 6th Floor, 29 W.
Susquehanna Avenue, Towson, MD 21204
Mr. Brian H. Fullerton and Cecelia Garrett, 12301 Belair Road,
Kingsville, MD 21087
J. Carroll Holzer, Esquire, Holzer and Lee, 305 Washington
Avenue, Suite 502, Towson, MD 21204
Mr. Ray Eller, 12305 Belair Road, Kingsville, MD 21087
Ms. Doris Schmur, 12309 Belair Road, Kingsville, MD 21087
Ms. Diane T. Neas, 7447 Mt. Vista Road, Kingsville, MD 21081
Ms. Charlotte Pine, 607 Baltimore Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM
James H. Thompson, Director

APPEAL

Petition for Variance
S/S Belair Road, 3500 Ft. NE of the C/L of Sunshine Ave
(12301 Belair Road)
11th Election District - 5th Councilmanic District
Brian H. Fullerton and Cecilia Garrett-PETITIONER
Case No. 95-63-A

- ✓ Petition(s) for Variance
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Entry of Appearance of People's Counsel
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Petitioner and Protestant Sign-In Sheets
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- ✓ Memorandum of Protestants dated November 4, 1994
- ✓ Petitioners' Post Hearing Brief dated November 4, 1994
- ✓ Zoning Commissioner's Order dated November 17, 1994 (Granted) as To 31
- ✓ Notice of Appeal received on December 16, 1994 from Robert R. Denied a
Bowie, Jr. on behalf of Brian Fullerton and Cecelia Garrett to set

c: ~~*~~ Robert R. Bowie, Jr., Esquire, Bowie & Jensen, 6th Floor, 29 W.
Susquehanna Avenue, Towson, MD 21204
Mr. Brian H. Fullerton and Cecelia Garrett, 12301 Belair Road,
Kingsville, MD 21087
J. Carroll Holzer, Esquire, Holzer and Lee, 305 Washington
Avenue, Suite 502, Towson, MD 21204
Mr. Ray Eller, 12305 Belair Road, Kingsville, MD 21087
Ms. Doris Schmur, 12309 Belair Road, Kingsville, MD 21087
Ms. Diane T. Neas, 7447 Mt. Vista Road, Kingsville, MD 21087
Ms. Charlotte Pine, 607 Baltimore Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM
James H. Thompson, ~~Director~~
ZONING ENFORCEMENT

JE

1/31/95 -Notice of Assignment for hearing scheduled for Wednesday,
May 10, 1995 at 10:00 a.m. sent to following:

Robert R. Bowie, Jr., Esquire
Brian H. Fullerton /Cecilia Garrett
J. Carroll Holzer, Esquire
Ray Eller
Doris Schmur
Diane T. Neas
Charlotte Pine
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

3/07/95 -T/C from Petitioner; is withdrawing appeal; will have letter of dismissal
sent thru his counsel via FAX this date. Will also remove sign from
property.

3/07/95 -Received FAX copy of letter from counsel for Petitioner; also received
copy of Motion to Dismiss filed by counsel for Petitioner; Board will
issue Order of Dismissal in this matter.

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Ken Smittle, DEPRM
Ground Water Management
County Courts Bldg.
Towson, MD.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
1994, at 11:00 a.m./~~P~~XX

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____

Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Denise Rohl, DEPRM
Ground Water Management
County Courts Bldg.
Towson, MD.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
1994, at 11:00 a.m./p.m.

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.
() -Unserved, by reason of _____
Date: _____ Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Jim Thompson, Zoning Enforcement
County Office Bldg.
Towson, MD.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
19⁹⁴, at 11:00 a.m./~~P~~XX

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961

(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____ Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

*

BEFORE THE ZONING

*

COMMISSIONER OF

*

BALTIMORE COUNTY

*

CASE NO. 95-63-A

*

*

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*

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Rob Powell, DEPRM
Septic and Perc
County Courts Bldg., Towson, MD.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
19⁹⁴, at 11:00 a.m./~~P~~XX

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____

Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Mr. Price, Assistant Supervisor
Animal Control
13800 Manor Rd.
Balto., MD. 21013

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
1994, at 11:00 a.m./p.m.

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____

Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Gary Freund, Zoning Enforcement
County Office Bldg.
Towson, MD. 21204

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
1994, at 11:00 a.m./~~PXX~~

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____

Fee: \$ _____

SHERIFF

IN THE MATTER OF

Celebrie Vet Hospital

12301 Bel Air Rd.

5th Councilmanic Dist.

* BEFORE THE ZONING

* COMMISSIONER OF

* BALTIMORE COUNTY

* CASE NO. 95-63-A

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission
Rule IV (c).

TO: Claire Brunner, DEPRM
Septic and Perc
County Courts Bldg., Towson, MD.

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce
documents and or objects only; (X) Personally appear and produce
documents or objects;

at Room 118, Old Courthouse, 400 Washington Ave., Towson
(Place where attendance is required)

on Wednesday the 19th day of October,
19⁹⁴, at 11:00 a.m./~~PXNX~~

YOU ARE COMMANDED TO produce the following documents or
objects: All plats, surveys, letters, correspondence and the
complete file on the Celebrie Vet Hospital

J. Carroll Holzer, 305 Washington Ave. #502 Towson 825-6961
(Name of Party or Attorney, Address and Phone Number requesting
subpoena)

Date _____

Zoning Commissioner

SHERIFF'S RETURN

() -Served and copy delivered on date indicated below.

() -Unserved, by reason of _____

Date: _____

Fee: \$ _____

SHERIFF

Baltimore County Government
Office of Zoning Administration
and Development Management

#60



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 22, 1994

Robert R. Bowie, Jr., Esquire
Bowie and Jenson
29 West Susquehanna Avenue, 6th Floor
Towson, Maryland 21204-5274

Re: Item No. 60
12301 Belair Road
Celebrie Veterinary Hospital

Dear Mr. Bowie:

On August 22, 1994, it was brought to the attention of the enforcement section, by Doris Schmier of 12309 Belair Road, that the plat prepared by Gerhold, Cross and Etzel in relationship to the distance of the kennel from her residence is in error. It is strongly suggested that you contact this company as to this issue. When this hearing does proceed before either the zoning commissioner/deputy, Ms. Schmier most certainly will raise this point and it could result in a delay of the petition hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. H. Thompson", written over the typed name.

JAMES H. THOMPSON
Zoning Supervisor

JHT/hek

c: Doris Schmier
Ray Eller
Inspector Gary C. Freund

DEVELOPMENT
MANAGEMENT
LOOK AT A handwritten signature, possibly "JF", written in dark ink.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 9, 1994

Robert R. Bowie, Jr., Esq.
29 W. Susquehanna Avenue, Suite 600
Towson, Maryland 21204

RE: Case No. 95-63-A, Item No. 60
Petitioner: Brian H. Fullerton/Celebrie Veterinary Hospital

Dear Mr. Bowie::

Enclosed are copies of comments received from Developers Engineering Section and the Office of Planning and Zoning on September 8, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Joyce Watson

Enclosure



LAW OFFICES
BOWIE & JENSEN
6TH FLOOR, 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204-5274
(410) 583-2400
FAX (410) 583-2437

August 12, 1994

HAND DELIVERED

Baltimore County Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Room 109
Towson, Maryland 21204
ATTN: Reg, Zoning Planner

Re: Celebrie Veterinary Hospital
12301 Belair Road, Kingsville, MD


Dear Reg:

Enclosed for filing, please find:

- (a) Three (3) original Petitions for Variance;
- (b) Twelve (12) copies of a sealed plat;
- (c) Three (3) copies of a sealed property description;
- (d) One (1) official zoning map of the area; and,
- (e) Our firm's checks in the amount of \$250.00 and \$35.00 to cover the filing fees.

Thank you for your cooperation in this matter.

Very truly yours,


Robert R. Bowie, Jr.

Enclosures

cc: Mr. Brian Fullerton

ITEM #60

LAW OFFICES
BOWIE & JENSEN
6TH FLOOR, 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204-5274
(410) 583-2400

#60
CORRECTED
8-19-94

ROBERT R. BOWIE, JR.

FAX: (410) 583-2437

August 19, 1994

HAND DELIVERED

Baltimore County Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Room 109
Towson, Maryland 21204
ATTN: Reg, Zoning Planner

Re: Celebrie Veterinary Hospital
12301 Belair Road, Kingsville, MD

Dear Reg:

Enclosed for filing, please find:

(a) Three (3) revised original Petitions for Variance pursuant to your comments to Bruce Doak on August 17, 1994;

(b) Twelve (12) revised copies of a sealed plat;

The following items have previously been submitted to you and accepted:

(c) Three (3) copies of a sealed property description;

(d) One (1) official zoning map of the area; and,

(e) Our firm's checks in the amount of \$250.00 and \$35.00 to cover the filing fees.

Thank you for your cooperation in this matter.

Very truly yours,


Robert R. Bowie, Jr.

Enclosures
cc: Mr. Brian Fullerton

ITEM #60

4368-94
9/1/94
of
to BS
OK

LAW OFFICES
BOWIE & JENSEN
6TH FLOOR, 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204-5274
(410) 583-2400

ROBERT R. BOWIE, JR.

FAX: (410) 583-2437

August 31, 1994

Arnold Jablon, Director
Baltimore County Government
Office of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No.: 95-63-A (Item 60)
Location: Celebrie Veterinary Hospital
12301 Belair Road

Dear Mr. Jablon:

I am in receipt of the Notice of Hearing with respect to the above captioned case noting a hearing on September 27, 1994, at 2:00 p.m. Unfortunately, I am scheduled to be in Virginia, September 26, 1994 through September 30, 1994, to conduct depositions in a civil case. These depositions have been rescheduled several times and been specially set by counsel for the last week in September. Therefore, I request a brief continuance of this matter.

Thank you for your cooperation in this matter.

Very truly yours,



Robert R. Bowie, Jr.

cc: Mr. Brian Fullerton,
Celebrie Veterinary Hospital
cc: Mr. Bruce Doak
cc: Mr. Ray Eller
cc: Ms. Doris Schmier

RECEIVED
SEP 1 1994
ZADM



LAW OFFICES

J. CARROLL HOLZER, PA
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923

9/22/94
OK
CS

4676-94

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MD 21784
(410) 795-8556
FAX: (410) 795-5535

September 21, 1994

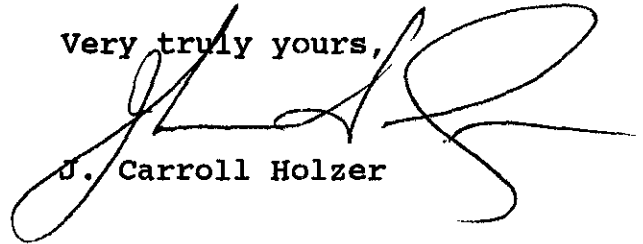
Mr. Arnold Jablon, Director
ZADM
County Office Building
Towson, Maryland 21204

Re.: Case No. 95-63-A
Celebrie Veterinary Hospital
12301 Bel Air Road

Dear Mr. Jablon:

Please enter my appearance on behalf of Protestants concerning the above captioned case. I have just received notification from them that the case has been scheduled for October 6, 1994, at 2:00 p.m. It will be necessary for me to ask for a postponement due to the fact that I will be before the County Board of Appeals on a specially set case that day involving a Petition for Special Exception by Baltimore Gas and Electric in the Falls Road area. The Board has currently scheduled the case for Tuesday, October 4, and Thursday, October 6, and I am sure that we will utilize all of October 6 and perhaps beyond for that issue. I would therefore request that the matter be postponed and rescheduled. In view of my trial schedule, perhaps it would be helpful to have your office contact me prior to actually scheduling a new date.

Very truly yours,



J. Carroll Holzer

cc: Mr. Ray Eller
Robert Bowie, Jr.

RECEIVED

SEP 21 1994

ZADM

letters3\Celebrie.ltr

PETITIONER(S) SIGN-IN SHEET

ADDRESS

7706 CHAPMAN KINGSVILLE 21087

320 E TOWSONTOWN BLVD TOWSON, MD. 21286



Printed with Soybean Ink
on Recycled Paper

PROTESTANT(S) SIGN-IN SHEET

NAME James J. Nease (GKA)

Kenneth Wells

Charlotte Prie

Swell Price

Dave Schreier

RAY ELLER

Doris Eller

ADDRESS
7447 Mt Vista Rd, Kingsville Md

7403 New Lot Rd

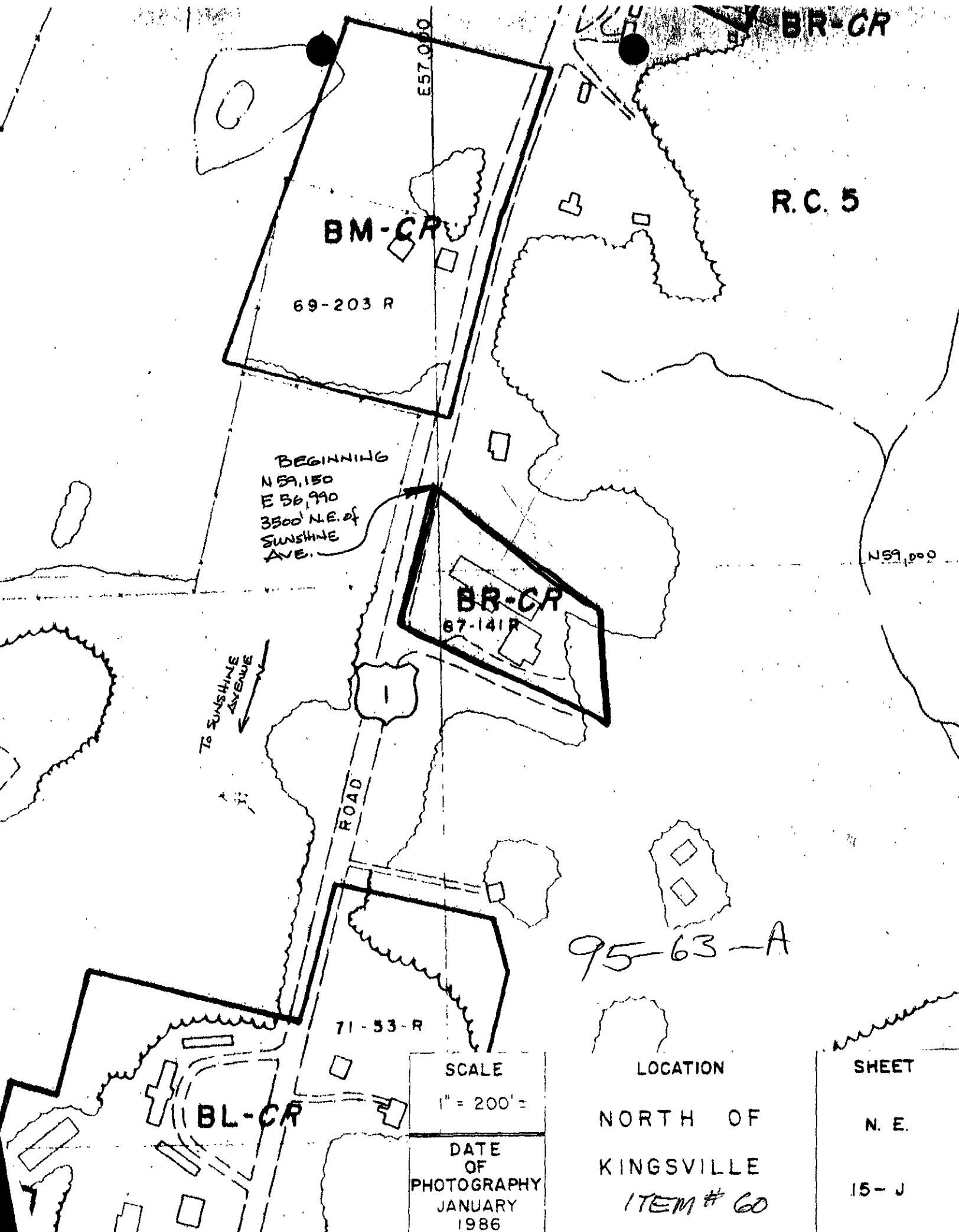
607 Balt. Ave Tower 12/20/04

Baltimore County Animal Control Division

12309 Belair Rd Kempell

12305 BreAnna Do Kinsvold

12305 Bellini Rd Kingsville Ma 01901



BM-CR

69-203 R

BEGINNING
N 59,150
E 56,990
3500 N.E. of
SUNSHINE
AVE.

BR-CR

67-141 R

TO SUNSHINE
AVENUE

ROAD

71-53-R

BL-CR

SCALE

1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION

NORTH OF
KINGSVILLE
ITEM # 60

SHEET

N. E.

15-J



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

John R. King
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B215857 CONTROL #: SI-10721 DIST: 11 PREC: 03
DATE ISSUED: 10/19/94 TAX ACCOUNT #: 1116075971 CLASS: 06

PLANS: CONST 1 PLOT 1 R PLAT 0 DATA 0 ELEC NO PLUM NO
LOCATION: 12301 BELAIR RD
SUBDIVISION: 3600 N OF SUNSHINE AV

OWNERS INFORMATION

NAME: FULLERTON, BRIAN GARRETT, CECILIA
ADDR: 7706 CHAPMAN RD KINGSVILLE, MD 21087

TENANT:

CONTR: STUDIO K

ENGR:

SELLR:

WORK: RE FACING OF EX D/F, F/S, NON ILLUM. SIGN ON
FRONT OF PROPERTY. LICENSE TAG MUST BE AFFIXED
TO SIGN. 9'X13'5"=120.74SF 3 DIFFERENT BUSINESS
ON SITE.

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

ESTIMATED \$ PROPOSED USE: VET HOSPITAL & SIGN
5,500 EXISTING USE: VET HOSPITAL

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: SIGN

FOUNDATION:

SEWAGE: PRIV. EXISTS

BASEMENT:

WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

SIZE: 0241.63 X 0000.00

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC/NC

SIDE STR SETB:

REAR SETB: NC

PETITIONER'S
EXHIBIT 3

LETTER OF UNDERSTANDING


THIS Agreement made this 18th day of October 1994, by and between Peter V. Gargano, (hereafter "Gargano") and Brian Fullerton, individually, and on behalf of Celebrie Veterinary Hospital (hereafter "Property Owner") represents an agreement between Gargano and Property Owner relating to a portion of the macadam located on Property Owner's property which encroaches on Gargano's property.

WHEREAS, Property Owner's property is encroaching as indicated in attached Exhibit "A" and

WHEREAS Property Owner is applying for a variance and need approval from Gargano to allow the encroachment, therefore for the consideration of One (\$1) dollar the amount hereby received, Gargano agrees to allow Property Owner to encroach on his property until such a time as Gargano request that the encroachment ceased.

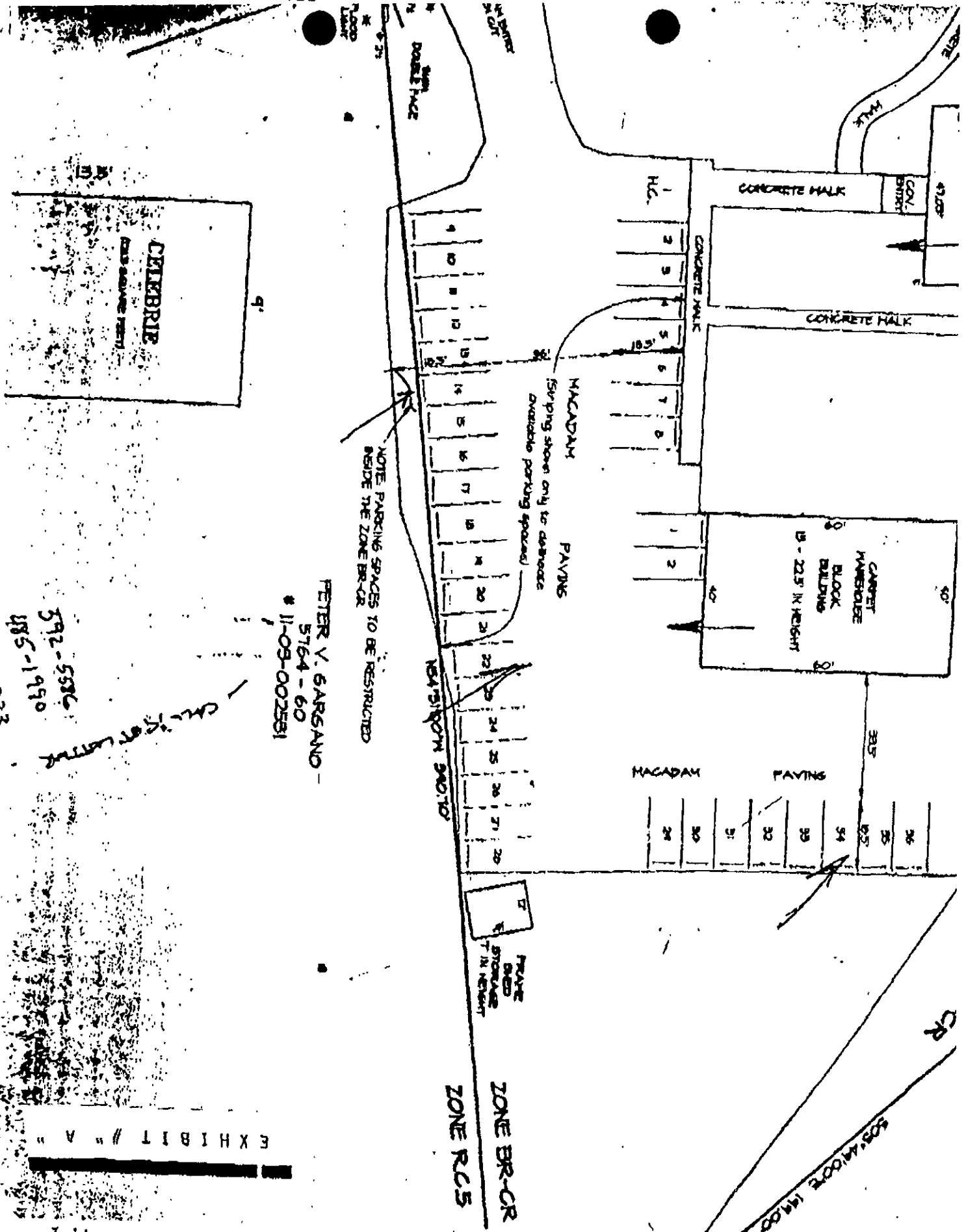
It is understood that the encroachment by Property Owner is not HOSTILE.


PETER V. GARGANO


BRIAN FULLERTON, individually
and on behalf of Celebrie
Veterinary Hospital

PETITIONER'S
EXHIBIT 4

TEL:



PETER V. GARGANO -

5764 - 60

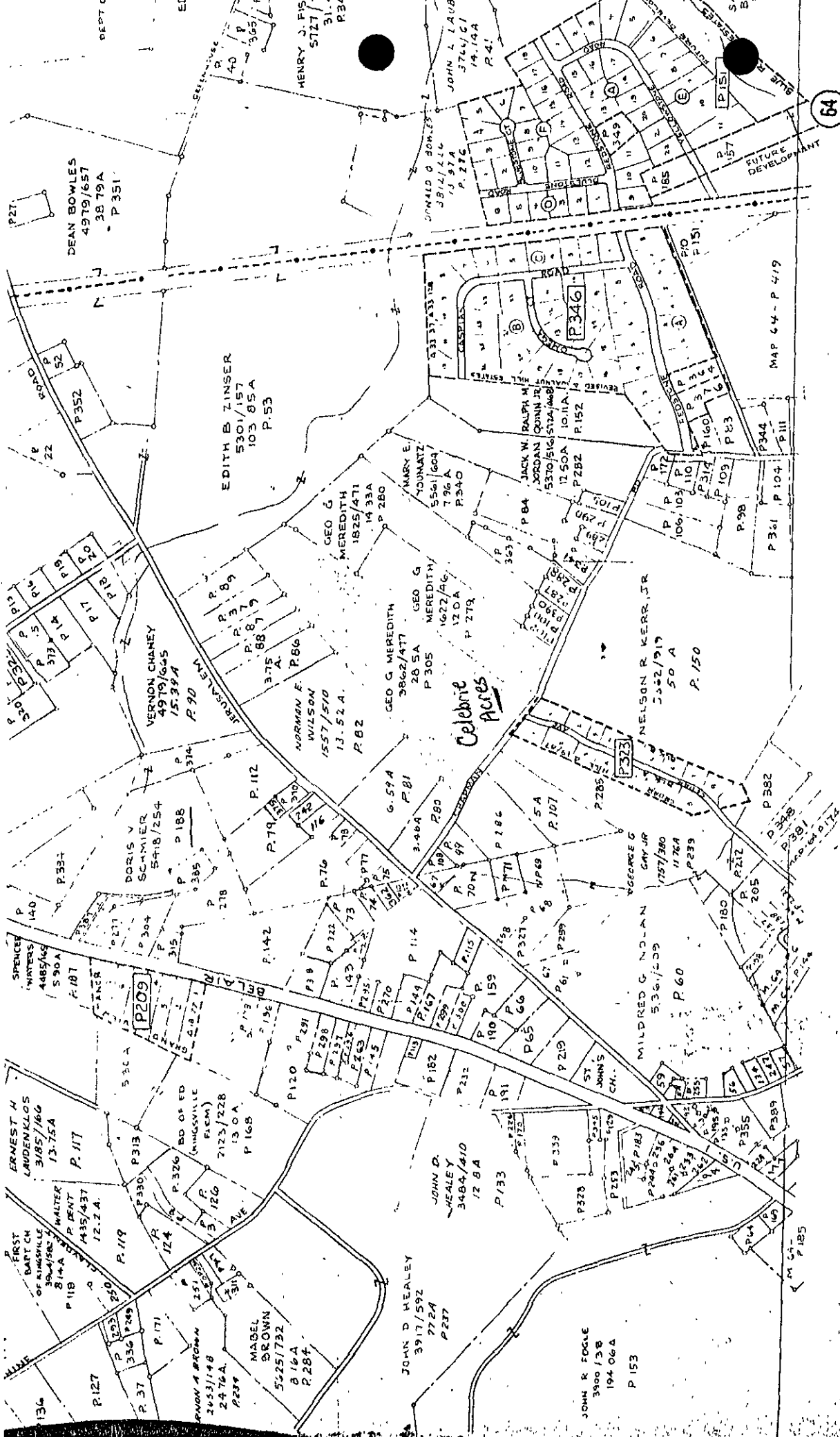
11-03-002581

592-5586
485-1990

Call for more info

EXHIBIT "A"

000258000 VUJ



PROTESTANTS

EXHIBIT NO. 1

MAP COORDINATE BLOCK
NUMBER SEQUENCE

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24

SCALE
1" = 90'

PUBLISHED
1977

COPYRIGHT-MAP DIVISION
MD DEPT OF ASSESS & T

Kendall was here where they live

LOCAL DISTRICT/NAME

YES ☒ NO ☐

DO NOT KNOW ☐

STRICT/PRECINCT

11/26/2011

40 2021

11/26/2011

BLOCK: EL PL

11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011

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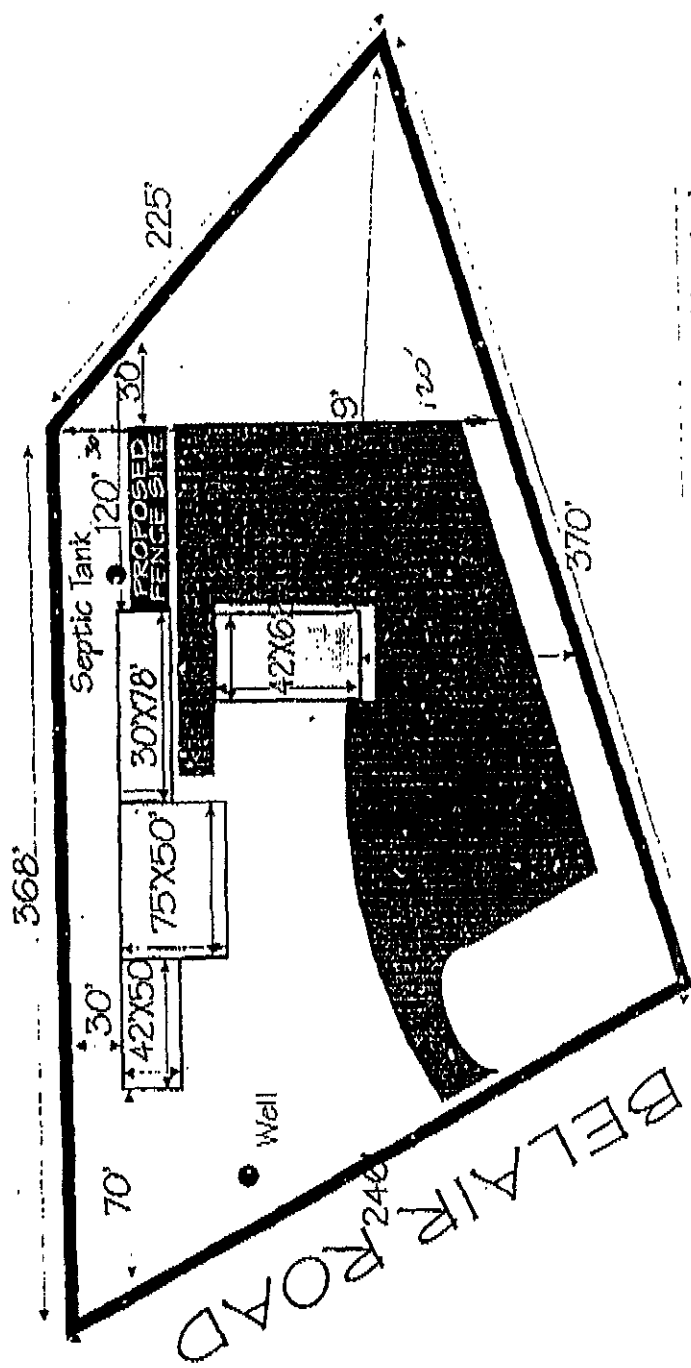
11/26/2011

11/26/2011

11/26/2011

11/26/2011

11/26/2011



Celebric Veterinary Hospital
12301 Belair Road
Kingsville, Maryland 21087

Zoned - BR Tax Map - P277

PROTESTANTS EXHIBIT NO. 2

Refused By Zoning

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: August 31, 1994

SUBJECT: 12301 Belair Road

INFORMATION:

Item Number: 60

Petitioner: Fullerton/Garrett Property

Property Size: _____

Zoning: B.R.-C.R.

Requested Action: _____

Hearing Date: _____ / _____ / _____

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments.

The subject property was rezoned through a Petition for Zoning Reclassification on January 23, 1967. The Office of Planning and Zoning, at that time, indicated that the proposed B.R. zoning "is the most permissive of all of the commercial zones and feels that the establishment of those broad potentials...would not be in harmony with the [residential] potentials of adjoining properties."

Decades later, a staff issue to apply the C.R. District was raised on the subject site as part of the 1992 Comprehensive Zoning Map Process. This was done to ensure that any future development would be consistent with the rural character of the Kingsville area. Ultimately, the County Council decided that the subject B.R. parcel should be overlain with the C.R. District.

By way of the instant case, this office once again has an opportunity to provide land use comments. While this office does not routinely provide a zoning history in most Petition review cases, the temptation was too great in this matter to do otherwise. We find it interesting that reservations expressed by this office 27 years ago were so incredibly foretelling.

The original rezoning provided for a nursery supply and service center; however, the property has since evolved into an overdeveloped commercial site which negatively impacts adjacent residential properties.

95-63

PROTESTANT'S
EXHIBIT NO. 23

Unless the applicant is able to demonstrate to the Zoning Commissioner that any noise emanating from the dog kennel area can be effectively soundproofed, staff strongly recommends the applicant's request be denied.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Keras

PK/JL:lw

The Greater Kingsville Civic Association, Inc.

P.O. BOX 221, KINGSVILLE, MARYLAND 21087

October 18, 1994

To the attention of the Baltimore County Zoning Commissioner:

On September 23, at our semi-annual general membership meeting, the Board of the Greater Kingsville Civic Association, Inc. and the general membership in attendance were made aware of the violation of the zoning code regarding the kennel constructed at Celebrie Animal Hospital on Belair Road in Kingsville. We were informed that the kennel was built without the proper setbacks required by zoning code. It was also noted that it was built before a special exception was obtained. There have been many complaints about the excessive noise and nuisance. It was also brought to our attention that, as of September 23, 1994, there was no license issued to Celebrie to operate a boarding kennel.

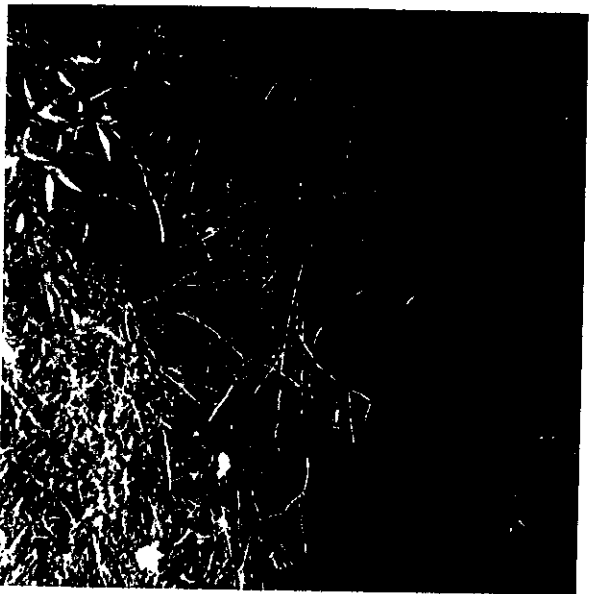
Our Board of Directors and members present voted unanimously to support the enforcement of *all* of the required zoning regulations, especially the required setbacks. We request that the Zoning Commissioner deny any petitions to amend any and all zoning guidelines.

Thank you for your consideration.

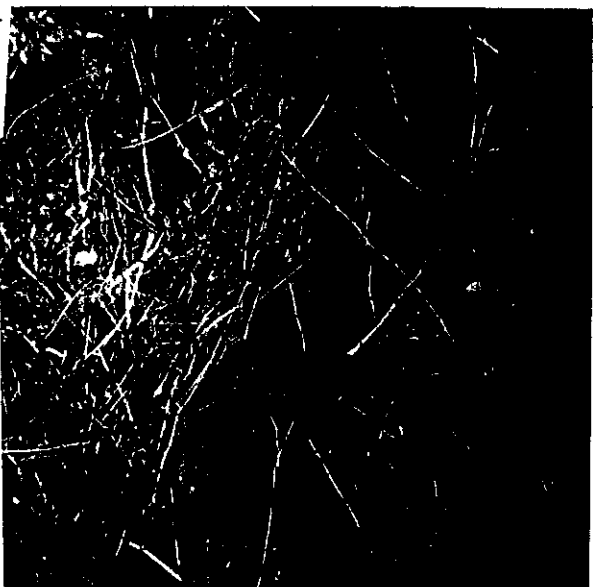
The Board of Directors of The Greater Kingsville Civic Association, Inc.

**PROTESTANTS
EXHIBIT NO. 104**

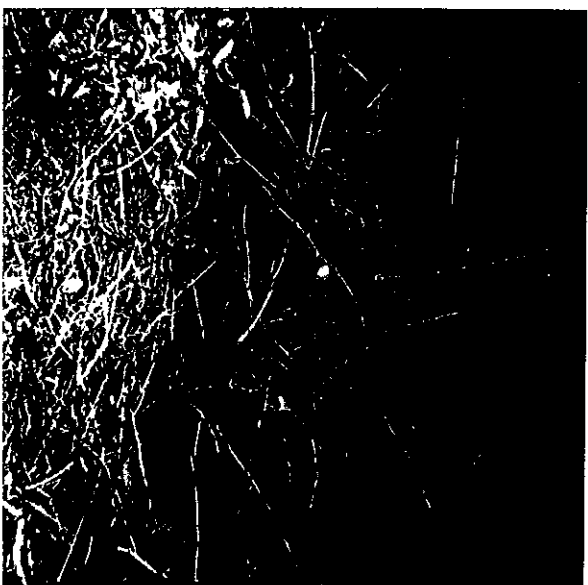
#1 Celebrae Animal Clinic
12301 Belair Rd 10:204
Sewage Overflows 8/29/94



#4 Celebrae Animal Clinic
12301 Belair Rd 8/29
Sewage Overflows 10:32A



#2 Celebrae Animal Clinic
12301 Belair Rd 10:274
Sewage Overflows 8/29/94



#5 Celebrae Animal Clinic
12301 Belair Rd 8/29
Sewage Overflows 10:35A

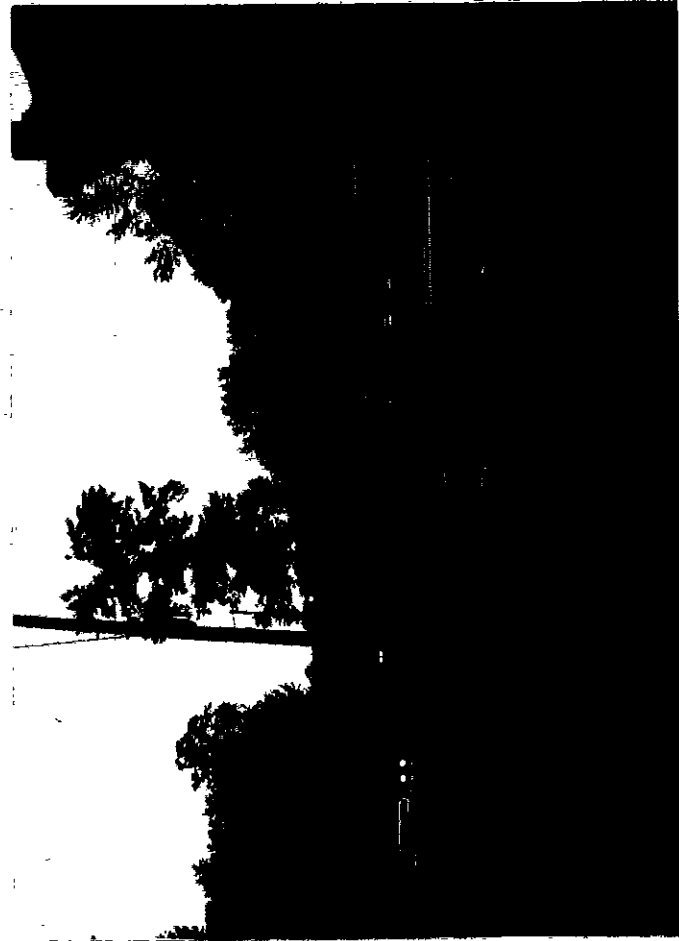


#3 Celebrae Animal Clinic
12301 Belair Rd 8/29
Sewage Overflows 10:30



#6 Celebrae Animal
Clinic - 12301 Belair Rd
Sewage Overflows 8/29/94
10:4



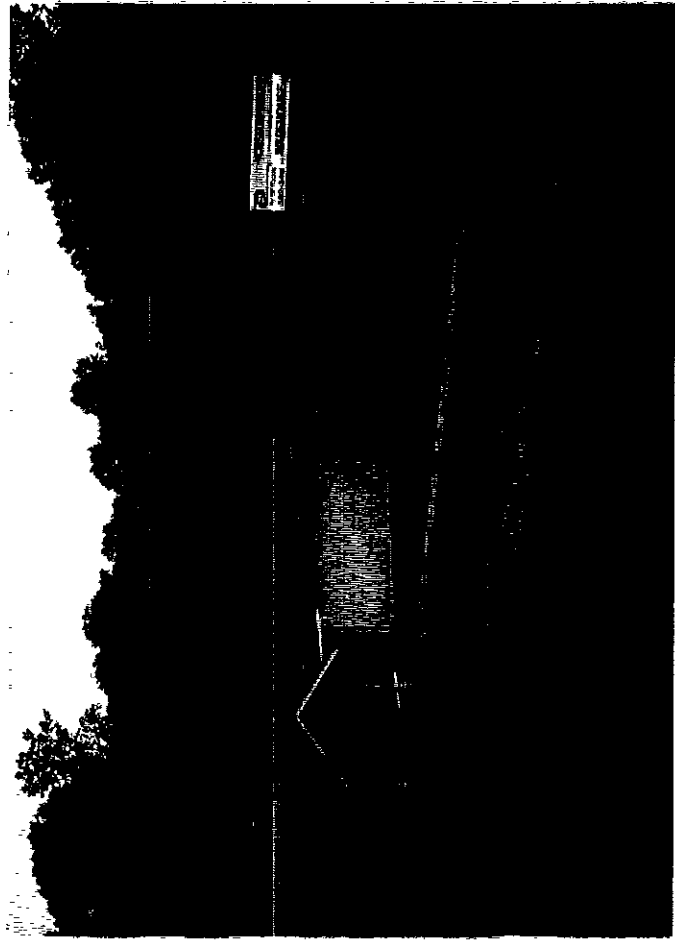
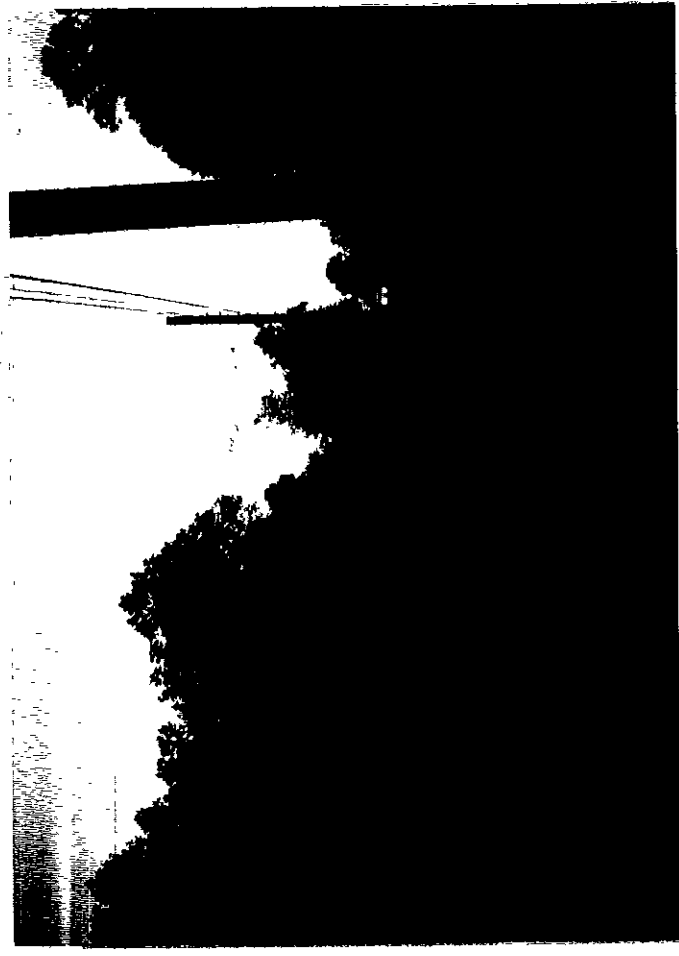


PETITIONER'S
EXHIBIT 2
1-15

USE WITH

1 PETITIONER'S
EXHIBIT 1

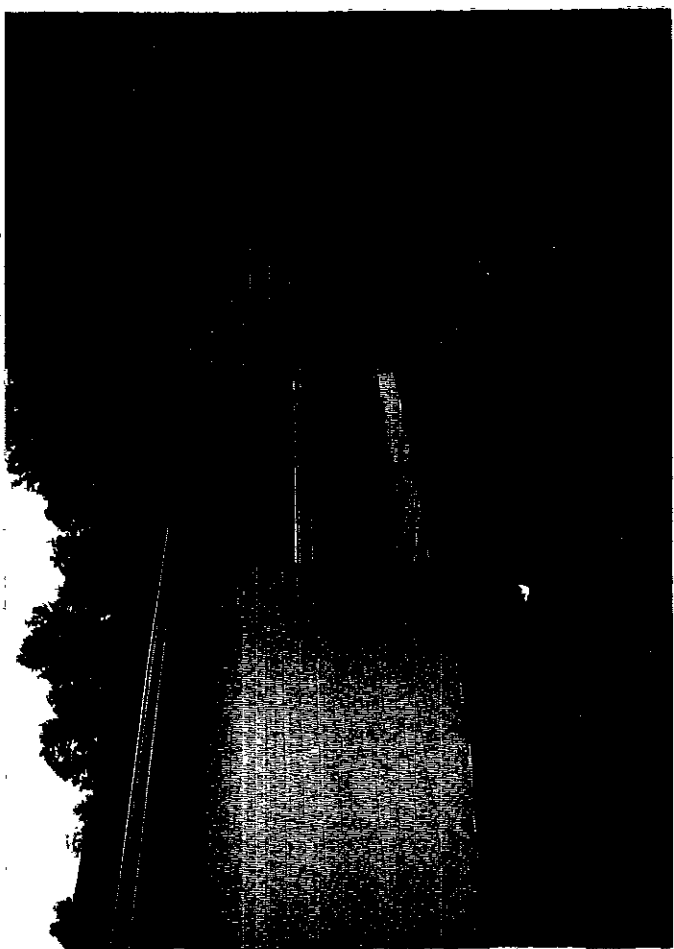
3



2



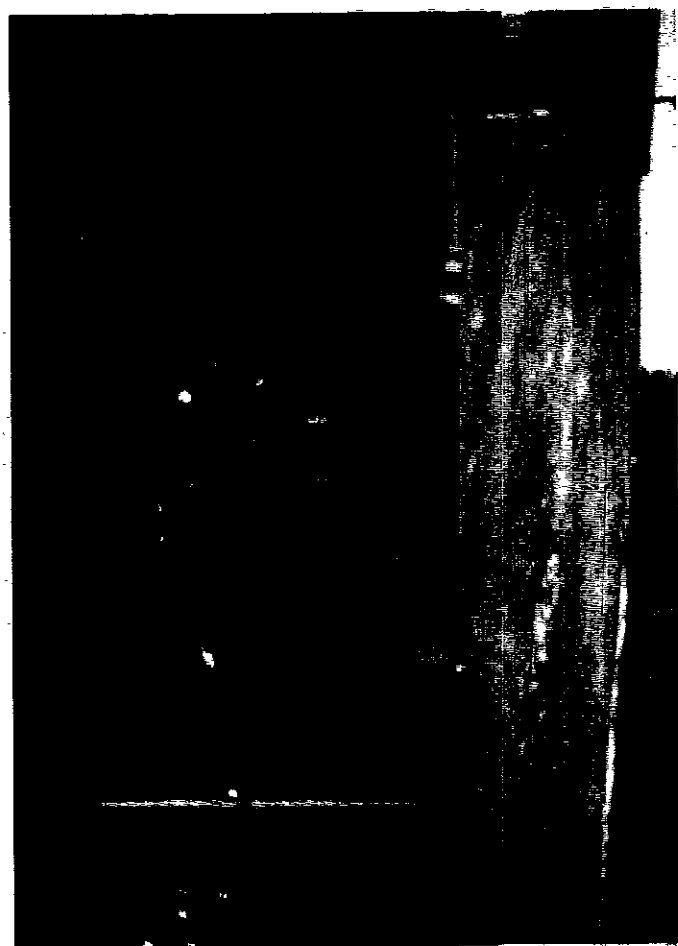
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7



8



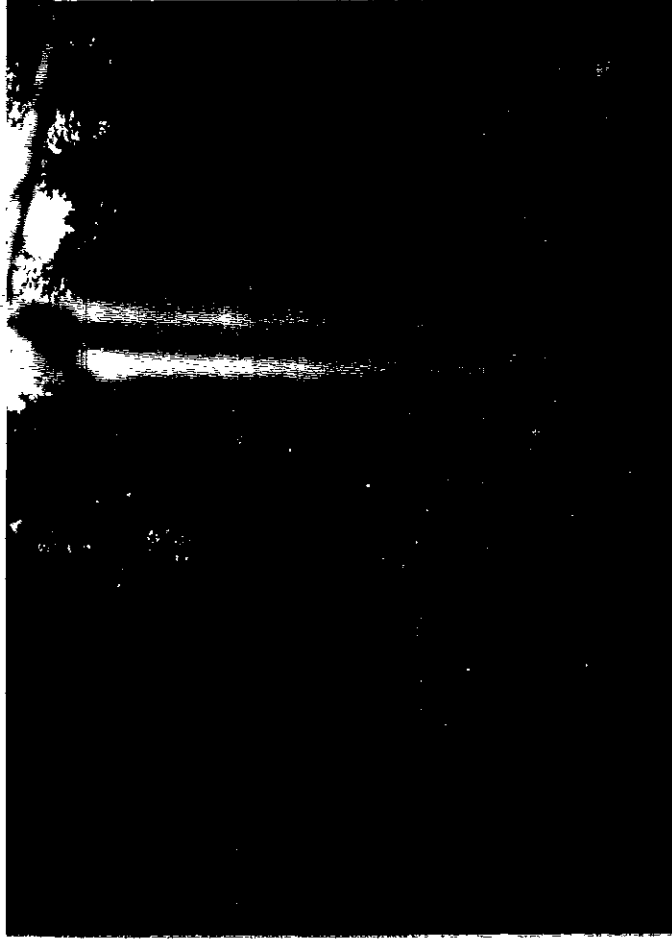
5



6



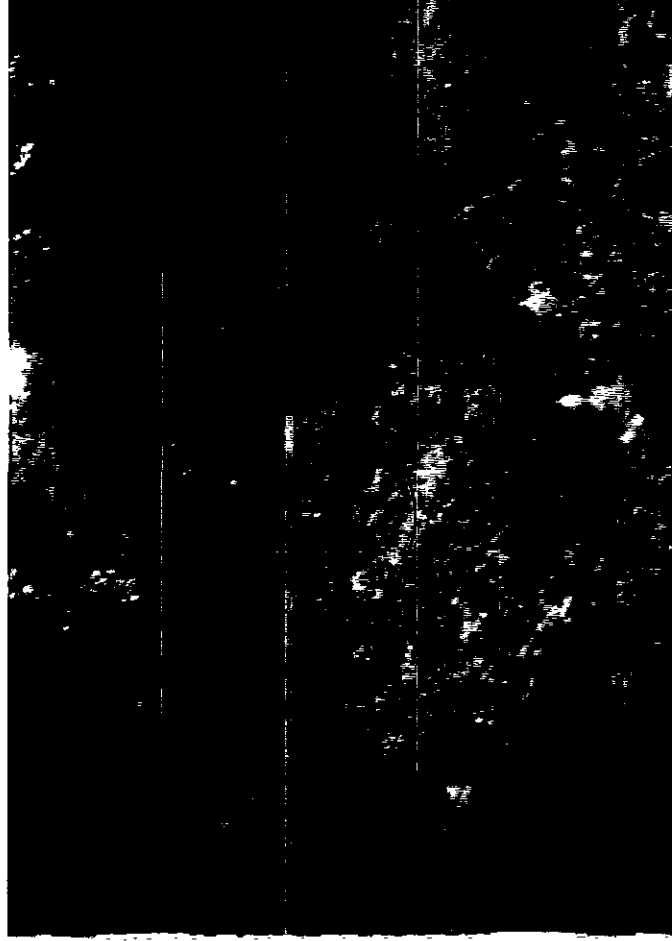
9



11



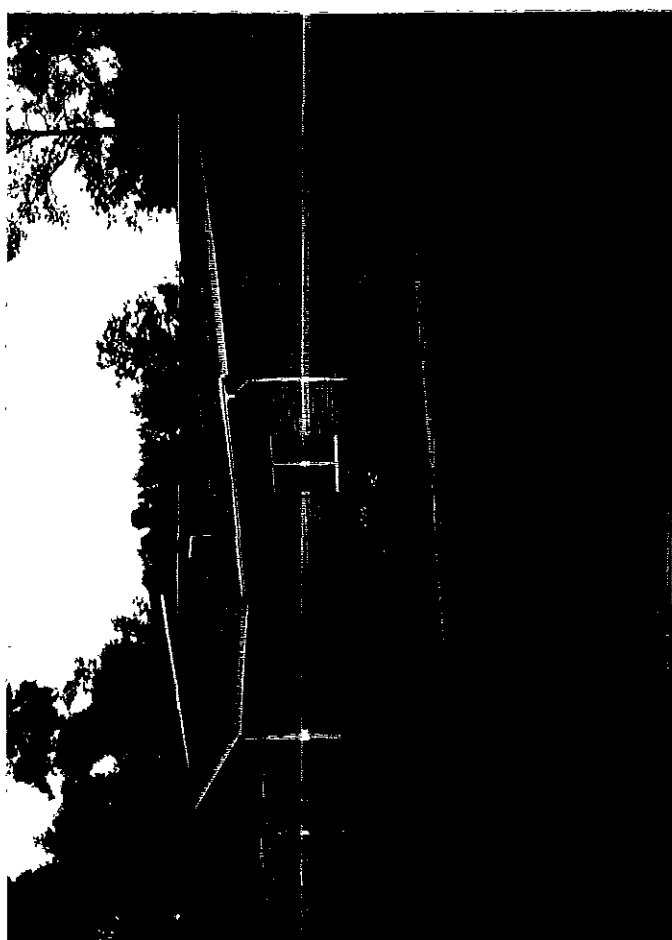
10



12



15



14



13

MAGNETIC 1960

DORIS VICTORIA SCHMIDT
12304 BELAIR ROAD
5418 - 254
11-19-00150

BEGINNING
DESCRIPTION
ZONING DESCRIPTION

ZONE RC-5
ZONE BR-CR

BELAIR ROAD
60' RIGHT-OF-WAY
50' MACADAM PAVING

3500' ± TO
SUNSHINE AVENUE

DORIS LEE ELLER
KATHLEEN ELLER
5502 BELAIR
11-00-00282

FENCE TO BE REMOVED

304' ± TO
SUNSHINE AVENUE

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

18' ± IN HEIGHT

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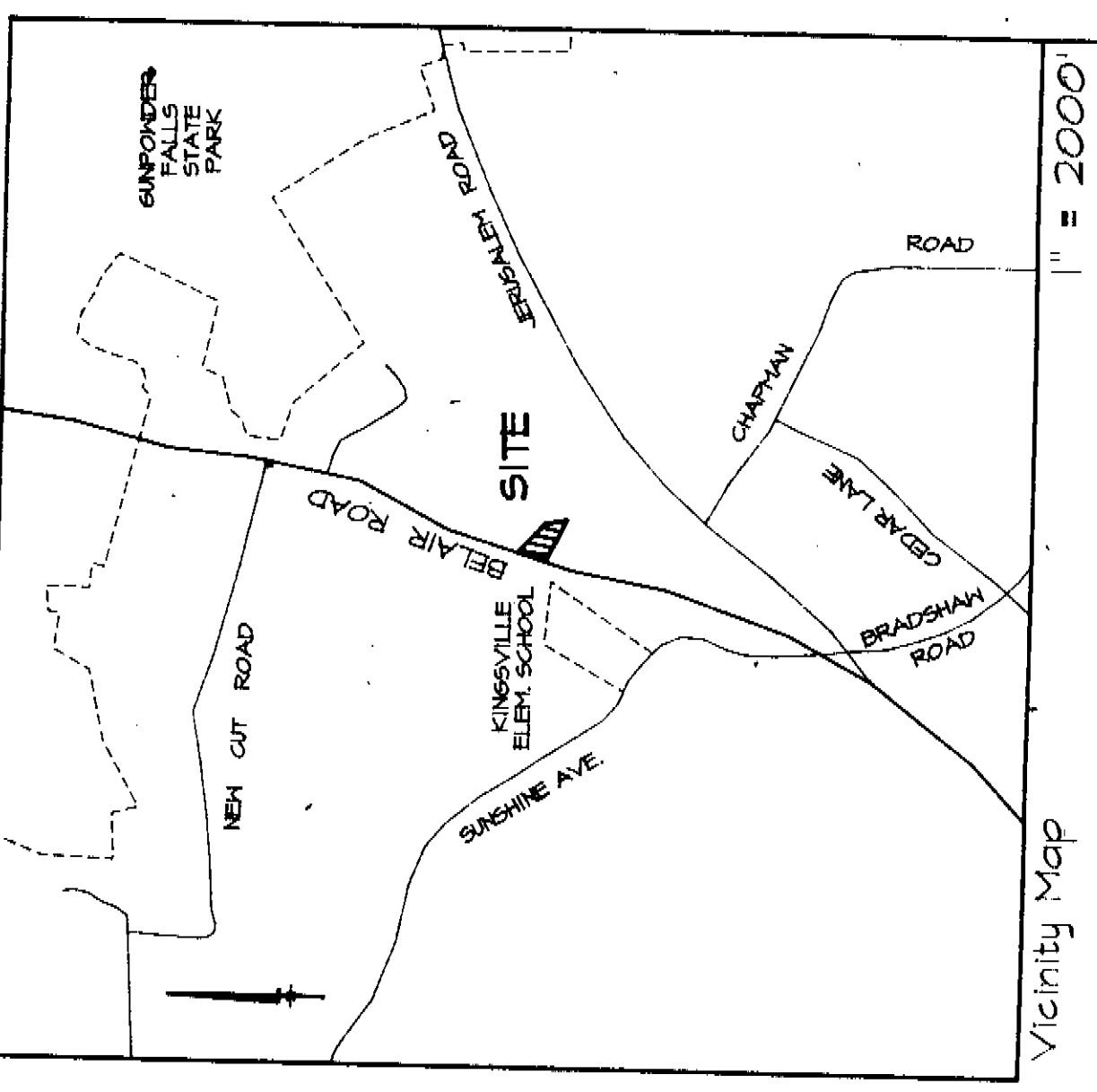
18' ± IN HEIGHT

PETER V. SARANO
5764 - 60
11-08-00253

CELEBRIE
(12.5 SQUARE FEET)

SIGN ELEVATION
1" = 5'

DORIS LEE ELLER
KATHLEEN ELLER
5502 BELAIR
11-00-00280



GENERAL NOTES

1. BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY WILLARD H. LEE.
2. CONVEYANCE DISTRICT 5
3. FLOOR AREA RATIO - 516/72584 = 0.126
4. RESIDE ZONING - R-40
5. ORDERED VARIANCE - 67-418
6. FROM A R-40 ZONE TO A BR ZONE
7. SUBJECT TO THE REVIEW BY THE BUREAU OF PUBLIC SERVICES
8. AND THE OFFICE OF PLANNING AND ZONING AND THE STATE ROADS COMMISSION.
9. THERE ARE NO FIRE HAZARDS WITHIN 300'
10. PARKING - VET HOSPITAL - 600 SQ. FT. - 2 SPACES PROVIDED
11. WAREHOUSE - 2400 SQ. FT. - 2 SPACES - 2 SPACES PROVIDED
12. VARIANCE REQUESTED FROM SECTION 4212
13. TO ALLOW AN EXISTING SETBACK FOR A KENNEL OF 14'4" AND EXISTING
14. SETBACK OF 20'0" FROM THE NEAREST RESIDENTIAL ZONE RESPECTIVELY.
15. THE VARIANCE REQUESTED FROM SECTION 483F
16. TO ALLOW AN EXISTING SIGN WITH AN
17. AREA OF 21.5 SQ. FT. IN LIEU OF THE REQUIRED 100 SQ. FT. MAXIMUM AREA
18. TO REMAIN.
19. ZONING COMPLAINT NUMBER 6-44-2405.

95-63-A

OWNER/DEVELOPER

BRIAN FULLERTON
CECELIA GARRETT
7706 CHAPMAN ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-2550

ITEM #60

PLAN TO ACCOMPANY
VARIANCE APPLICATION

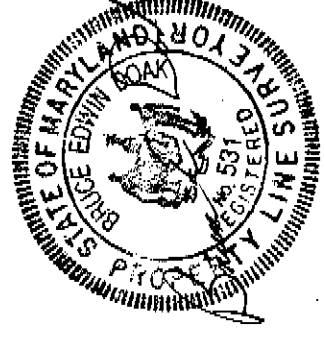
VETERINARY HOSPITAL
CELEBRIE

12301 BELAIR ROAD
Deed Ref: S.M. No. 9249 folio 490
Tax Account No. 11-16-0715971

Zoned BR-CR
Tax Map 55 Grid 14 Parcel 277

11th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

#60



Scale: 1" = 30'
August 17, 1994
GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Chesapeake Boulevard
Towson, Maryland 21286
(410) 835-4110

CORRECTED
8/19/94

95-63-A

MAGNETIC 1960

DORIS VICTORIA SCHMIDT
12301 BELAIR ROAD
5418 - 254
11-16-00150

DORIS LEE ELLER
RAYMOND ELLER
5552 - 206
11-00-002552

PETER V. GARGANO
5764 - 60
11-05-002551

CELEBRIE
1218 SQUARE FEET

SIGN ELEVATION
1" = 5'

BEGINNING
DESCRIPTION
ZONING DESCRIPTION

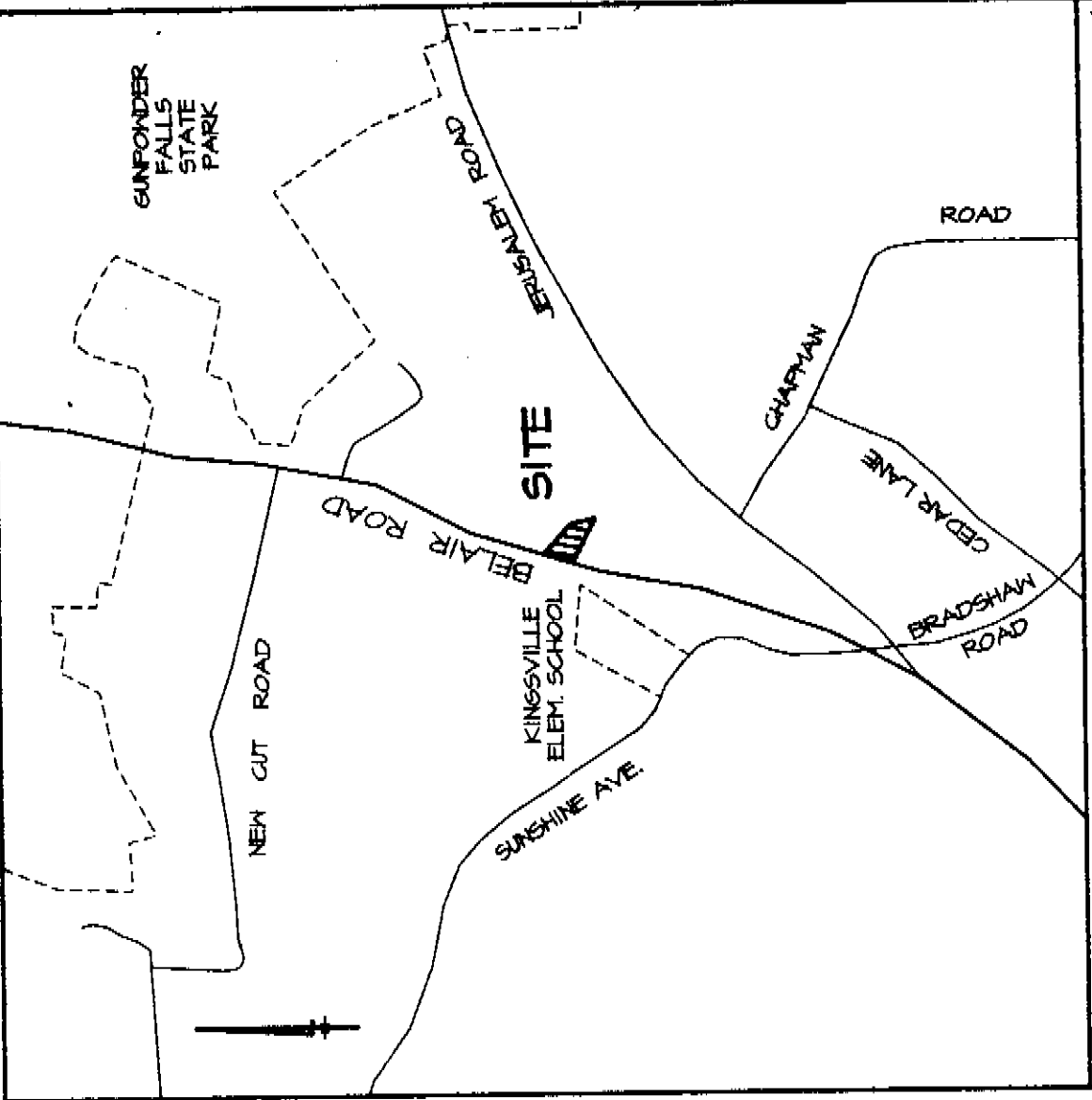
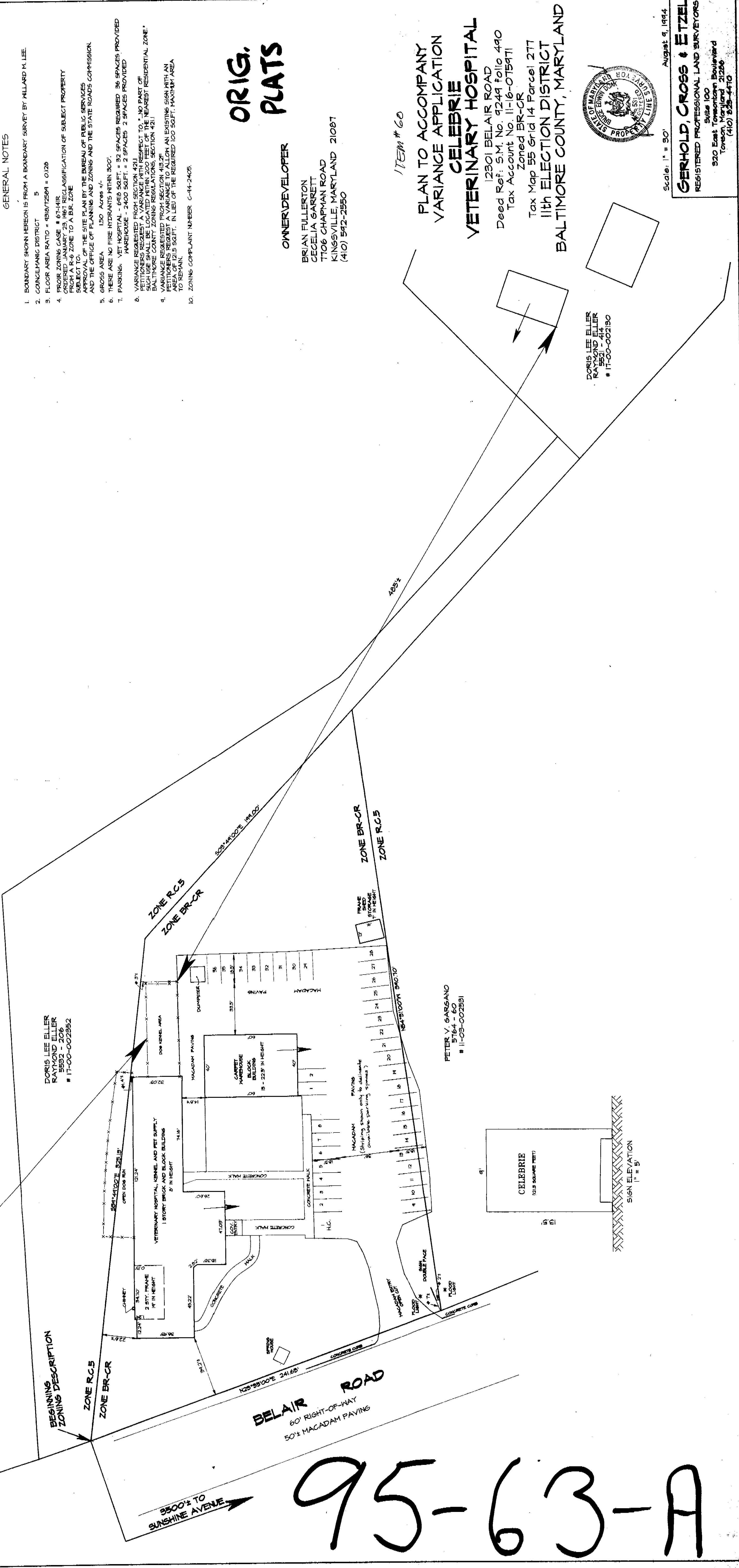
ZONE RC-5
ZONE BR-CR

3500'± TO
SUNSHINE AVENUE

BELAIR ROAD
60'± RIGHT-OF-WAY
50'± MACADAM PAVING

ZONE RC-5
ZONE BR-CR

ZONE BR-CR
ZONE RC-5



GENERAL NOTES

1. BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY WILLARD M. LEE.
2. CONJUGAL DISTRICT 5
3. FLOOR AREA RATIO = 4387/2581 = 0.128
4. PROPOSED ZONING CASE # 67-148
5. PROPOSED VARIANCE # 11-16-00150
6. FROM A R-4 ZONE TO A BR-CR ZONE
7. SUBJECT TO THE SITE PLAN BY THE BUREAU OF PUBLIC SERVICES
8. AND THE OFFICE OF PLANNING AND ZONING AND THE STATE ROADS COMMISSION.
9. GROSS AREA 130 Acres 1/2
10. THERE ARE NO FIRE HYDRANTS WITHIN 300'.
11. PARKING, VET HOSPITAL - 6418 SQ. FT. = 92 SPACES PROVIDED
12. WAREHOUSE - 2400 SQ. FT. = 2 SPACES 2 SPACES PROVIDED
13. VARIANCE REQUESTED FROM SECTION 42.1
14. SECTION 42.1 REQUESTED VARIANCE REQUEST TO: NO PART OF
15. SECTION 42.1 BE LOCATED WITHIN 200 FEET OF THE NEAREST RESIDENTIAL ZONE.
16. BALTIMORE COUNTY ZONING REGULATIONS, SECTION 42.1
17. VARIANCE REQUESTED FROM SECTION 42.2
18. SECTION 42.2 REQUESTED VARIANCE REQUEST TO: AN EXISTING SIGN WITH AN
19. AREA OF 1218 SQ. FT. IN LIEU OF THE REQUIRED 100 SQ. FT. MAXIMUM AREA
20. TO REMAIN.
21. ZONING COMPLAINT NUMBER C-44-2405

ORIG.
PLATS

OWNER/DEVELOPER

BRIAN FULLERTON
CECELIA GARRETT
7706 CHAPMAN ROAD
KINGSVILLE, MARYLAND 21087
(410) 542-2550

ITEM # 60

PLAN TO ACCOMPANY
VARIANCE APPLICATION
VETERINARY HOSPITAL
CELEBRIE

12301 BELAIR ROAD
Deed Ref: S.M. No. 9249 folio 490
Tax Account No. 11-16-075471
Zoned BR-CR
Tax Map 55 Grid 14 Parcel 277
11th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND



Scale: 1" = 30'
August 9, 1964
GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
920 East Towson Boulevard
Towson, Maryland 21206
(410) 553-4410

95-63-A

